
ALL THE RIGHT MOVES IN MINNESOTA

RELOCATION AND ACQUISITION IN HUD PROGRAMS

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**ALL THE RIGHT MOVES IN MINNESOTA:
Relocation and Acquisition in HUD Programs**

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All the Right Moves in Minnesota, April 1994

Overview

THE CURRENT PICTURE

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (URA)

- ☐ URA now applies to:
 - Displacement that results from acquisition, demolition, or rehabilitation for HUD-assisted projects carried out by public agencies, nonprofit organizations, private developers, or others.
 - Real property acquisition for HUD-assisted projects (whether publicly or privately undertaken.)
- ☐ Chapters 1 through 6 of HUD Handbook 1378, *Tenant Assistance, Relocation and Real Property Acquisition* implement URA and the government-wide rule which became effective 4/2/89 for HUD-assisted programs.
- ☐ Policies described in Chapters 1 through 6 of HUD Handbook 1378, Tenant Assistance, Relocation, and Real Property Acquisition. (Policies implement URA and government wide rule at 49 CFR Part 24.)

SECTION 104(D) RELOCATION REQUIREMENTS

- ☐ Section 104(d) requirements apply to some (but not all) CDBG or HOME funded projects.
- ☐ Section 104(d) relocation requirements differ from URA in several ways, including who is eligible for assistance and what assistance is provided.
- ☐ Chapter 7 of HUD Handbook 1378 implements Section 104(d). Section 104(d) is covered in Chapter 4 of this Course Book.

OTHER RELOCATION REQUIREMENTS

- ☐ Many HUD program regulations specify additional relocation requirements (e.g. economic displacement).
- ☐ Chapter 8 of HUD Handbook 1378, summarizes these requirements.

KEY CONCEPTS

HUD-ASSISTED PROGRAMS

Handbook 1378, Paragraph 1-14

- ☐ Relocation requirements apply to:
 - Any HUD-provided grant, loan or contribution, and
 - HOME, CDBG or Section 108 loan guarantees.
- ☐ They do not apply to Other Federal guarantees or insurance (e.g., FHA insurance). See the next page for HUD Programs covered by relocation/acquisition requirements.

WHAT IS A PROJECT?

Handbook 1378, Paragraphs 1-20 and 7-10

- ☐ A "project" is an activity or series of activities that are integrally related, each essential to the others, whether or not all components receive federal financial assistance. If federal funds are used in any activity, the entire project is considered a federally assisted project.

Example #1:

CDBG funds are used to acquire two of 10 parcels needed for a new shopping mall. Non-federal funds are used to acquire the other eight. The "project" is all 10 parcels. Displaced "persons" from all 10 parcels must receive consideration and assistance based upon the federal rules (URA or Section 104(d) as applicable).

Example #2:

A HOME project is planned to assist 10 out of 20 units in a rental project. Households in all 20 are protected by URA and, if applicable, Section 104(d).

- ☐ In order to determine whether a series of activities are a project, look at:
 - Location - Are the activities located on the same or adjacent/contiguous sites?
 - Developer - Are activities conducted by or on behalf of a single or related entities?
 - Timeframe - Do activities take place within a time frame of each other?
 - Objective - Is the single activity essential to the overall undertaking?

HUD PROGRAMS COVERED BY RELOCATION REQUIREMENTS**Handbook 1378, Paragraph 1-3*****Community Development Programs***

Community Development Block Grants (CDBG) Entitlement Program (24 CFR 570.606)
Section 108 Loan Guarantees (24 CFR 570.702(f) and 570.606)
CDBG HUD-Administered Small Cities Program (24 CFR 570.606)
State CDBG Program (24 CFR 570.496a)
Urban Development Action Grants (UDAG) (24 CFR 570.457)
Home Investment in Affordable Housing (HOME) (24 CFR 92.353)
Rental Rehabilitation Loans (24 CFR 511.14)
Housing Opportunities for Persons with AIDS (24 CFR Part 574)
Emergency Shelter Grants (for homeless) (24 CFR 576.80)
Transitional Housing Program (for homeless) (24 CFR 577.315)
Permanent Housing Program for Handicapped Homeless Persons (24 CFR 578.315)
Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) (24 CFR 579.315)
Shelter Plus Care (24 CFR, Subtitle A)
Section 312 Rehabilitation Loans (24 CFR Part 510)

Public and Indian Housing Programs

Home Investment in Affordable Housing (HOME) for Indians Program (24 CFR 92.634)
CDBG for Indian Tribes and Alaskan Native Villages (24 CFR 571.602)
Public Housing Development and Major Reconstruction of Obsolete Projects (MROP)
(24 CFR Part 941)
Comprehensive Improvement Assistance Program (CIAP) -- Public Housing Modernization
(24 CFR Part 968)
Comprehensive Grant Program (CGP) -- Public Housing Modernization (large PHAs only)
(24 CFR Part 968). Beginning in FY 1992, for PHAs with 500 or more units. Beginning in
FY 1993, for PHAs with 250 or more units.
Public Housing Program -- Demolition or Disposition of Public Housing Projects
(24 CFR Part 970)
Section 8 Project-Based Certificate Assistance (24 CFR 882.712)
Section 8 Housing Assistance Payments Program -- Moderate Rehabilitation (24 CFR Part
882)
Section 8 Single Room Occupancy Moderate Rehabilitation for Homeless (24 CFR 882.803(d))

HUD PROGRAMS COVERED BY RELOCATION REQUIREMENTS***Housing Programs***

Housing Development Grants (HoDAG) (24 CFR Part 850)
Lead-Based Paint Abatement Grant Program
Special Purpose Grants (24 CFR 570.606)
Supportive Housing for the Elderly (24 CFR 889.265(e))
Supportive Housing for Persons with Disabilities (24 CFR 890.260(e))
Section 202 Loans for Housing for the Elderly (24 CFR Part 885)*
Section 202 Loans for Housing for the Nonelderly Handicapped (24 CFR Part 885)*
Section 8 Loan Management Set-Aside for Projects with HUD-Insured and HUD-Held
Mortgages (24 CFR Part 886)
Section 8 for Disposition of HUD-Owned Projects (24 CFR Part 886)
Flexible Subsidy (24 CFR 219.135)
Management and Disposition of HUD-Owned Single Family Properties (24 CFR Parts 203
and 291)
HUD-Owned and HUD-Managed Multifamily Housing Properties (24 CFR Part 290)
Multifamily Rental for Moderate-Income Families (Section 221(d)(3)) (24 CFR Part 221).
Rental Supplement Payments (24 CFR Part 215)*
Mortgage Insurance and Interest Reduction Payments for Rental Projects (24 CFR Part 236)*
Section 8 Housing Assistance Payments Program for New Construction (24 CFR Part 880)*
Section 8 Housing Assistance Payments Program for Substantial Rehabilitation
(24 CFR Part 881)*
Section 8 Housing Assistance Payments Program -- State Housing Agencies
(24 CFR Part 883)*

* HUD no longer funds new projects under this program but continues to provide project-based subsidies for existing projects in order to make the housing affordable to lower income occupants. These project-based subsidies constitute "HUD financial assistance" and persons displaced as a direct result of rehabilitation, demolition, or acquisition must be provided relocation assistance at URA levels.

MINIMIZING DISPLACEMENT

Handbook 1378, Paragraph 2-2a

As a general philosophy (as well as a specific program requirement in some instances), HUD requires program administrators to take all reasonable steps to minimize displacement as a result of a HUD-assisted program. This means:

- ☐ Considering whether displacement will occur during feasibility determinations.
- ☐ Assuring, whenever possible, that residential occupants of buildings to be rehabilitated are offered an opportunity to return.
- ☐ Planning rehabilitation projects to include "staging" where this would minimize displacement.
- ☐ Following notification and advisory services procedures carefully to assure that families do not leave because they are not informed about plans for the project or their rights.

WHO IS A DISPLACED PERSON?

Handbook 1378, Paragraph 1-8

- ☐ Displacement occurs when a "person" (or their property) is displaced as a DIRECT RESULT OF federally assisted acquisition, demolition or rehabilitation project.
- ☐ DIRECT RESULT includes the following:
 - The person is required to move from the property (e.g., because the family size cannot be accommodated after rehabilitation, the unit is demolished or its use is changed, or the family's lease is not renewed) [1-8b(1)].
 - The person leaves the property because a decent, safe, and sanitary and affordable unit in the property was not offered [1-8b(6)(a)].
 - The person leaves the property because of unreasonable temporary relocation requirements or unreasonable terms for permanent moves within the property [1-8b(6)(a)].
 - The person leaves for whatever reasons AND the necessary notices to assure that the person was fully informed about relocation rights and assistance were not given or were not given in a timely fashion [1-8b(3)].

WHO IS NOT DISPLACED?

Handbook 1378, Paragraph 1-8c

- ☐ Persons not displaced include those who:
 - Were evicted for cause, BUT not if the eviction is taken to evade paying relocation assistance;
 - Have no legal right to occupy the property (e.g. squatters) [1-8c(2)];
 - Occupied the property for the purpose of obtaining relocation benefits;
 - Before leasing and occupying the property but after application for project funding, receive written notice of the possibility that displacement or an increase in rent may occur and that relocation assistance will not be provided [1-8c(4)];
 - Retain the right of use and occupancy of the property following acquisition (life estates).
 - After being fully informed of their rights, waive them.
 - The grantee decides (and HUD agrees in writing) were not displaced as a direct result of the project (professional relocatees).
- ☐ When in doubt, ask the HUD Field Office for a determination. See the reference section of this training manual for a list of HUD Field Office contacts.

ASSISTANCE TO DISPLACED HOUSEHOLDS

Assistance must be provided to displaced persons who leave the project. Displaced households receive:

- ☐ Appropriate notices and other advisory services to assure they are fully informed of their rights, make informed decisions, and receive referrals to appropriate services that may be needed.
- ☐ Replacement Housing including the offer of a comparable replacement dwelling and, if necessary, financial assistance to make the unit affordable. (Financial assistance may be in the form of a Replacement Housing Payment or tenant-based assistance, such as Section 8 Certificates and Vouchers.)
- ☐ Moving and related expense to help cover costs of the move.

ASSISTANCE TO REMAINING HOUSEHOLDS

Assistance must also be provided to those who are expected to remain in the project. Remaining households receive:

- ☐ Appropriate notices and other advisory services to assure that they are fully informed of their rights, make informed decisions and receive referrals to appropriate related services that may be needed.
- ☐ Suitable housing - The family must be offered a unit within the project that is decent, safe and sanitary and appropriate to the household's size.
- ☐ Affordable housing - If a household's rent increases as a direct result of a federally assisted activity to an amount that is more than the household can afford and the household moves, the household is considered a "displaced" person.
- ☐ Temporary relocation assistance including moving and related expenses to cover the cost of any temporary move (e.g., while the unit is being rehabilitated)
- ☐ Moving and related expenses to help cover the cost of any permanent move to another unit in the project.

RELOCATION REFERENCE MATERIAL AND RESOURCES

- Handbook 1378. *Tenant Assistance, Relocation and Real Property Acquisition*, issued September 1990. This Handbook consolidates relocation requirements for all HUD programs in one document. Its appendices include guide forms for the various notices.
- HUD information booklets for persons who are displaced or whose property is to be acquired. English and Spanish versions are available from the HUD Field Office serving your jurisdiction.
- Relocation Staff in the Department of Employment and Economic Development: Patrick Armon 651-297-3371 and HUD's Minnesota Office: Ruth Drolsum 612-370-3000 ext. 2111.

COURSEBOOK CITES

- Throughout the remainder of this coursebook references to HUD Handbook 1378 are provided.
- Large boxes follow each major chapter heading. These boxes note the general sections of the 1378 where information on that topic may be found.
- Smaller, italic citations note where specific information on detailed points may be found in Handbook 1378.

URA Requirements

OVERVIEW

UNIFORM RELOCATION ACT (URA) FOR HUD PROGRAMS

- The URA is government-wide legislation. The requirements in this Coursebook cover the URA as it applies to HUD programs. If you are working with other Federal agency programs, for example, the Federal Highway Administration, please contact that funding agency for more information.
- This Chapter focuses on the URA as it relates to occupants of residential structures (owners and renters). URA requirements for residential owner-occupants are covered in Chapter 2 (Acquisition). Businesses, non-profit agencies and farms also are covered by the URA. Please consult HUD Handbook 1378 for guidance on this
- There are some differences in the way URA requirements are applied for specific HUD programs because of the different ways in which HUD assistance is provided. This Chapter first describes the "general URA policy" for HUD programs and then identifies key differences for specific programs.

TIMING FOR RELOCATION ASSISTANCE ELIGIBILITY

Handbook 1378, Paragraph 1-15

- Under URA rules it is impossible to establish a hard and fast cut-off date for eligibility. However, most HUD program regulations establish an assumed cut-off date that is considered to be the beginning point for eligibility. This date is identified as the "initiation of negotiations."
- When property is being acquired with Federal funds, and the acquisition does not fall under "voluntary acquisition" rules, those people who move after a Notice of Intent to Acquire or the written offer is made are eligible for Relocation benefits. The date that these notices are sent are considered by HUD to be the "Initiation of Negotiations".
- Even though the "initiation of negotiations" generally marks the date when families become eligible for relocation assistance, relocation concerns must be addressed much earlier.
 - A project that does not proceed to execution of the agreement does not trigger eligibility for relocation assistance.

- But, once a project reaches this point, residents may be eligible for relocation assistance because the owner or grantee failed to take appropriate steps before execution of the agreement [1-15 note; 1-8b(2)].

For example, the "initiation of negotiations" for a rehabilitation project is the execution of the funding agreement between the grantee and the owner. Up until that moment eligibility for relocation assistance has not been triggered.

Rehabilitation Timeline

—>Application—> Project Selection —> Execution of Agreement—>Rehab Completion

HOW DISPLACEMENT IS TRIGGERED IN REHABILITATION PROJECTS

□ Before Application

- Generally, before application, eligibility for relocation assistance is triggered by a tenant's permanent move **ONLY IF** the grantee or HUD determines that the displacement was a direct result of the project activity [1-8b(2)].

For example, the grantee could determine that an owner displaced tenants in order to propose a vacant building for HUD assistance.

□ After Application

- Displacement is triggered when a tenant moves permanently from the property because [1-8b]:
 - The tenant is required by the owner to move permanently. (This includes the owner's refusal to renew a lease.); or
 - The grantee or owner *fails to provide timely required notices* to the tenant; or
 - The *owner fails to pay* the actual, reasonable out-of-pocket expenses for a temporary move or because the *conditions of the temporary move are unreasonable*.

□ After Execution of Agreement

- Displacement is triggered if a tenant moves permanently from the project because the tenant is not provided the opportunity to lease a suitable, affordable unit in the project [1-8b(6)a].

COMPARABLE UNITS

Handbook 1378, Paragraphs 1-6, 1-7
and 2-5

IMPORTANT TERMS

- ☐ Comparable Unit: One or more specific unit(s) offered by the grantee to a displaced person which in size, function, and location are as similar as possible to the unit the household is leaving.
- ☐ Replacement Unit: The unit to which the household actually moves.
- ☐ Referral Unit: Other appropriate (but not necessarily comparable) housing which is suggested to the household as part of advisory services.

WHY COMPARABLES?

- ☐ Tenants who are displaced must be referred to at least one "comparable" replacement unit [2-5a].
- ☐ Comparables are used to:
 - Assure that displaced persons actually have a place to go, and
 - Set a limit on the maximum liability for the agency for replacement housing payments because the replacement housing payment is based upon the cost of the household's replacement unit or the cost of the comparable unit if it is lower. [2-5c(1)]

WHAT IS A COMPARABLE?

- ☐ Generally, "comparable" units must be: [1-6]
 - Similar in size:
 - Generally, comparable units will have the same amount of space as the original unit.
 - Sites should be typical in size for residential development with normal site improvements [1-6e].

Note: if the original unit was dilapidated, a smaller, decent, safe and sanitary unit adequate in size to accommodate the household, may be considered comparable [1-6b].

- Similar in function [1-6b]

The unit performs the same function, service, or purpose as the displacement unit.

Example: If the tenant occupied an SRO before, a replacement unit could be an SRO that provides the functionally equivalent facilities for eating, sleeping, and bathing.

- The unit contains the same principle features:

Example: If the original unit had a separate dining room and living room, but the replacement unit has a combined living and dining area to accommodate the same activities, the replacement unit is "functionally equivalent" to the old.

Example: If the original unit contained a pantry but the new unit contains sufficient cabinets for storage of food and kitchen items, the two units are still "functionally equivalent."

- Reasonably accessible to the person's employment;
- Located in equal to or better area than the displacement unit vis-a-vis public utilities and commercial and public facilities; [1-6d]

- The location should be no less desirable than the displacement location and provide access to work, services, and facilities.

Example: A displaced family has two school age children. If they want to keep their children in the same school, the "comparable" unit should be within the same school district.

Example: Mrs. Jones is dependent upon bus transportation to get to her job. The "comparable" unit should be located near a bus line which provides her reasonable (similar time and cost) access to her employment.

Example: Mrs. Smith is offered a comparable unit in a neighborhood across town which unlike her present neighborhood is known to be unsafe and have a high crime rate. Despite the fact that the identified unit is of similar size, rent, function, and design as the original, the unit is not considered "comparable."

- Comparable units may not be in areas subject to unreasonable, adverse environmental conditions.

- Currently available to the displaced person. Units are "available" if [1-6f]:
 - The person has been informed of the location;
 - Has sufficient time to negotiate an agreement to lease or purchase; and
 - Receives relocation payments (as necessary) in sufficient time to complete the move or purchase.
 - It would be possible for that tenant to rent the unit (although it might take special negotiations with the owner if the tenant has lifestyle or rent payment history problems.)
- A comparable, for purposes of establishing the maximum Rental Assistance Payment, might not allow pets. However, the agency should make every effort to refer the displaced tenant to a unit where they could have their pet and continue their accustomed lifestyle.
- Decent, safe and sanitary [1-7] (See next page)
- Within the financial means (as described in the next section) of the displaced person [1-6g].

Note: Because URA requires that financial assistance be provided to assist the household to afford the replacement unit, the unit selected as the comparable is not required to be affordable by the family without assistance.

- The type of rental property affects whether it is considered comparable.
 - Public housing is a suitable comparable unit for displaced public housing tenants, but not for other tenants [1-6f(2)(a)].

Example: Mr. Schultz has lived in a privately owned unit for 5 years. He is being displaced and is offered a public housing unit as his only referral. Although the public housing unit is in all other respects similar to his original unit, he has not been offered a "comparable" unit.
 - Project based subsidized housing (e.g., Section 8 or Section 236 projects) is an acceptable comparable for displaced public housing tenants as well as those who lived in such projects before being displaced [1-6f(2)(b)].
 - A privately-owned unit made affordable by a tenant-based subsidy (e.g., Section 8 Rental Certificates) is an acceptable comparable for displaced persons who previously lived in a unit with a project-based subsidy [1-6f(2)(c)].
 - Affordable privately owned housing is an acceptable comparable for any tenant.

- Form HUD-40061 (Appendix 12 of Handbook 1378) may be used to select the most representative comparable.

Decent, Safe and Sanitary Units

- DS&S units must:
 - be structurally sound, weather-tight and in good repair
 - include wiring that is safe and adequate for lighting and other devices
 - contain a heating system capable of sustaining a healthful temperature
 - be adequate in size for the household including:
 - Separate, well ventilated bath with sink, bathtub or shower, and toilet in good working order and properly connected
 - A kitchen area with sink, potable water, sewage drainage, and space and connections for stove and refrigerator
 - Unobstructed access to safe, open space at ground level.
 - For a person with mobility impairments, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling.
 - Comply with the lead-based paint requirements of 24 CFR Part 35 (i.e., no cracking, peeling, chipping, scaling paint; provide lead-based paint notice if children under seven will occupy the unit) [1-7a(7)].
- Units that meet the Section 8 Housing Quality Standards are considered "decent, safe and sanitary" replacement units [1-7b].
- Units must be inspected by qualified persons who are knowledgeable of the local housing code.

NOTICES AND OTHER ADVISORY SERVICES

WHO NEEDS A NOTICE?

Handbook 1378, Paragraph 2-3 and 1-8b(3)

- ☐ Virtually EVERYONE needs a notice of some kind. All occupants are entitled to timely notice explaining whether or not they will be displaced.
 - Occupants to be displaced must be informed of their eligibility for relocation assistance and the nature of the assistance.
 - Occupants not to be displaced must be informed of the terms and conditions under which they may occupy the property upon completion of the project.
- ☐ Different notices serve different purposes and must be tailored both to:
 - The specific project circumstances, and
 - The individual circumstances of the residents.
- ☐ Combining notices is OK, IF the appropriate information is provided in a timely manner [1-8b(3)].
- ☐ Failure to provide correct and timely notices can be one of the most expensive mistakes that a relocation specialist can make.

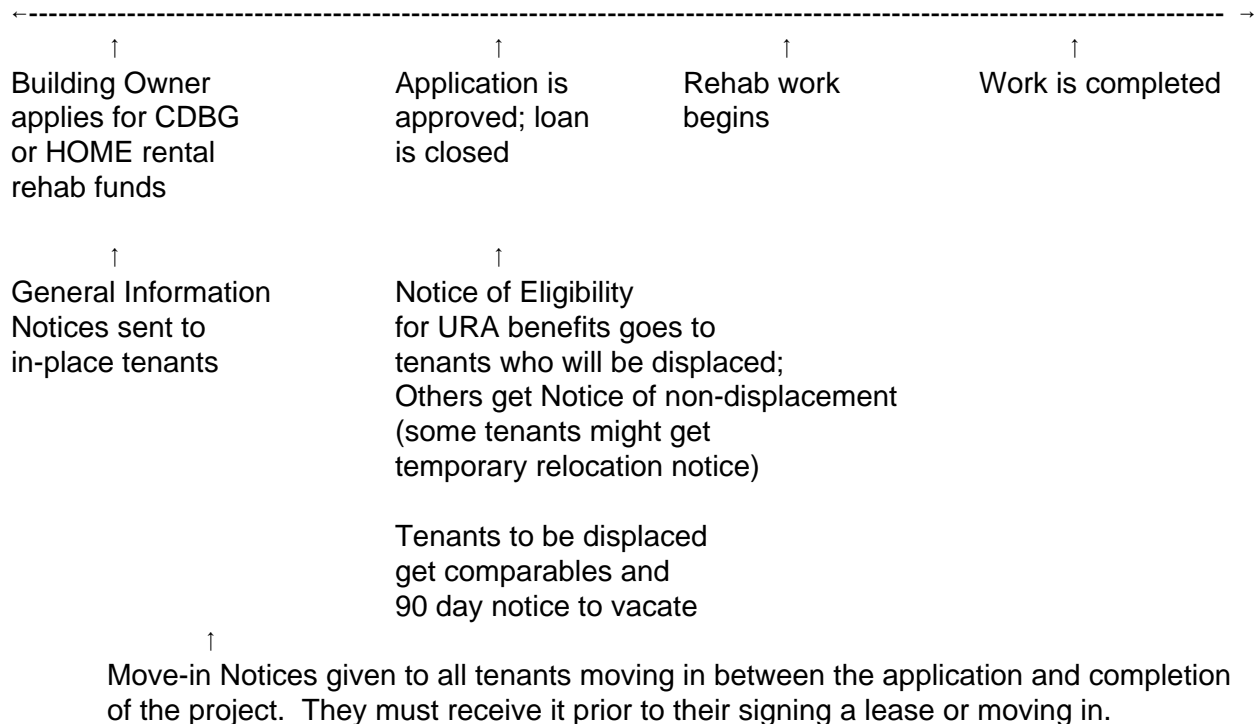
WHAT NOTICES ARE REQUIRED?

Handbook 1378, Paragraph 2-3 and 1-8c(4)

- ☐ There are several different types of notices indicated by the URA.
 - General Information Notice (GIN): Informs occupants of a possible project and of their rights under the URA. Stresses that the household should not move at this time. In acquisition projects, this would occur at the time that the Notice of Interest is sent. In rental rehabilitation projects, it should be sent as soon as feasible after a rental building owner has applied for rehab funds.
 - Move-in Notice: Informs households moving into potential projects after the application that they may be displaced and that they will not be entitled to assistance.

- Notice of Non-Displacement: Informs households who will remain in the project after completion of the assisted activity of their rights and of the terms and conditions of their remaining at the property.
- Temporary Relocation Notice: Informs households who will be temporarily relocated of their rights and of the conditions of their temporary move.
- Notice of Eligibility: Informs households to be displaced of their rights and levels of assistance under the URA.
- 90 and 30 Day Notices: Informs displaced households of the day by which they must vacate the property. Note that displaced households may not normally be given less than 90 days to vacate their residence.
- The chart below highlights the timing of these notices.

NOTICES REQUIRED BY URA FOR RENTAL REHAB TENANTS



WHAT MUST NOTICES SAY?

Handbook 1378, Paragraph 2-3 and 1-8c(4)

☐ General Information Notice

- Different versions are required for those persons who will and will not be displaced.
- The notice must be provided as soon as feasible. For residential rehabilitation projects the notice should be given as soon as feasible after the owner's submission of an application [2-3a].
- The notice must explain that the project has been proposed and caution the person not to move prematurely [2-3a(1); 2-3a(2)].
- It informs the person of the terms for continued occupancy if the resident will not be displaced or of the assistance available if the person will be displaced [2-3a(1); 2-3a(2)].
- If displacement is possible, the notice should enclose additional information about available relocation assistance (e.g., HUD Booklet 1042-CPD, *Relocation Assistance to Tenants Displaced From Their Homes*.)

☐ Notice to Tenants Moving In After Application [1-8c(4)]

- This notice may be issued to each prospective tenant BEFORE the tenant agrees to move into the project.
- It explains that the project has been proposed and informs residents that they may be displaced or sustain a rent increase as a result AND that they will not be entitled to relocation assistance in either event.
- Failure to issue this notice can be very costly. The grantee may incur an unnecessary relocation liability for each resident who moves in after the application who is not given this notice .

☐ Notice of Nondisplacement

- For residential rehabilitation projects this notice is issued to residents who will remain in the project.
- It is issued at the time of the execution of the agreement for rehabilitation and contains a specific offer of a suitable, affordable unit in the project [2-3b(1)].

□ Temporary Relocation Notice

- Residents who are not required to move permanently may be required to move temporarily IF all conditions of the move are "reasonable" [2-4b].
- Those to be temporarily relocated must receive "reasonable" advance written notice of the location, terms and conditions of the temporary move and of their right to reimbursement of all reasonable out-of-pocket expenses [2-4b].

□ Notice of Eligibility for Relocation Assistance

- For residential rehabilitation projects, this notice is issued to residents who will be displaced [2-3b(2)].
- The notice is issued at the time of the execution of the agreement for rehabilitation and contains a commitment for relocation assistance including:
 - Addresses of comparable replacement units, and
 - A specified amount for a replacement housing payment and moving expense.

Note: Because the comparable rents set an upper limit for assistance, failure to provide information about available, comparable units may result in a requirement to pay excessive relocation costs .

- For a family who can be offered a decent, safe and sanitary unit in the project but not an affordable one, the notice may offer the family the opportunity to waive relocation assistance and remain in the project.
- The notice should include the information contained in HUD Booklet 1042-CPD.

□ 90 Day (and 30 Day) Notices

- Each lawful occupant to be displaced must receive at least 90 days written advance notice before being required to move [2-3c(1)].
- The notice cannot be given before the person is issued a notice of eligibility for relocation assistance OR before being notified of the availability of a comparable replacement dwelling [2-3c(2)].
- The notice must specify the date by which the property must be vacated or if the date is unknown, indicate the earliest date that the occupant may be required to move [2-3c(3)].
- If no date is specified in the 90 day notice, the occupants must be informed that they will receive at least 30 days advance written notice of the specific date of the move [2-3c(3)].

- Occupants may be required to move on less than 90 days notice if the grantee determines that the notice is impracticable (e.g., a health hazard) [2-3c(4)].

WHEN AND HOW ARE NOTICES SERVED?

Handbook 1378, Paragraph 2-3 and 6-1

- ☐ Notices may be issued by either the grantee or the owner. However, the grantee is ultimately responsible and must assure that timely and correct notices are given. HUD recommends that grantees issue the notices [6-1a].
- ☐ Notices must be personally served or sent by certified or registered first-class mail, return receipt requested. (Certified mail is less costly.) [2-3d]
- ☐ Notices should be issued as soon as feasible. Although Handbook 1378 defines the point of "initiation of negotiations" for HUD programs, the date of "application" is less clear. To avoid relocation problems grantees should establish policies defining when an application is received.

GRANTEE RESPONSIBILITY FOR OTHERS USING THEIR FUNDS

Handbook 1378, Paragraph 1-29b and 6-1a

- ☐ When program activities are carried out by others, including subgrantees, developers or owners, the grantee must assure that proper notices are given.
- ☐ Of particular note is the requirement for first-time homebuyers or non-profits acquiring properties for a first-time homebuyers program to give the seller a notice that the property will not be taken by eminent domain and for any rental occupant to receive the required notices described above.
- ☐ See Chapter 2 for additional information on acquisition, including a sample notice for voluntary sales.

INFORMATION AND COUNSELING

Handbook 1378, Paragraphs 2-4 and 2-5

- ☐ All residents must be kept informed of project activities and scheduling.
- ☐ Information and counseling should also include:
 - Referrals to other available assistance and human services (e.g., health services, public assistance, child care)
 - Information about Federal, state and local housing programs and how to apply for them.
 - Information about the households rights under the Fair Housing Act.
 - For those who are displaced: information, to the extent possible, about replacement housing opportunities that may promote fair housing and moves to neighborhoods outside areas of racial concentration.

Notice Exercise:

EXERCISE ANSWERS

RELOCATION ASSISTANCE FOR RESIDENTS WHO ARE DISPLACED

FACTORS FOR CALCULATING ASSISTANCE

- Everyone who meets the URA definition of a "displaced person" is eligible to receive relocation assistance unless their property is being acquired with Flood Buy-out Funds.
- However, the level and type of assistance received by different types of displaced persons may vary, based upon several factors including:
 - Whether the person is a tenant or owner;
 - Whether the person is a business or household;
 - How long the person has lived in the project; and
 - The person's income.
- In order to evaluate the impact of a displaced person's income on their relocation assistance, it is important to know the definition of "income" and to understand when HUD imposes certain income limits.

Definition of Income

- Historically, CDBG grantees have used their own definition of "income" for CDBG programs (e.g., income as reported for tax purposes).
- 24 CFR Part 813 contains specific definitions of "Annual (Gross) Income" and "Adjusted Income" that are used for the Section 8 Program and many other HUD programs. These definitions are included at the end of this chapter..
- CDBG and HOME grantees must also use the Section 8 definition to compute "income" for:
 - All households in HOME projects; and
 - Certain households in CDBG projects. (Low-income tenants who are being displaced from units covered by 104(d)).

Income Limits

- Two different Income Limits are established and published by HUD:
 - Section 8 Low Income Limit. The lower income limit generally represents 80% of the area median income for the market area covered.
 - Section 8 Very Low Income Limit. The very low income limit generally represents 50% of the area median income for the market area covered.
- The limits are published for each county or Metropolitan Statistical Area in Michigan by number of members in the household. These income limits below are just an example and will not apply to your program::

	<u>1 Member</u>	<u>2 Members</u>	<u>3 Members</u>	<u>4 Members</u>	<u>5 Members</u>
Very Low	\$12,100	\$13,800	\$15,500	\$17,250	\$18,650
Low	\$19,300	\$22,100	\$24,850	\$27,600	\$29,800

- These limits are updated and published periodically so jurisdictions should always check to make sure that they are using the most recent version of the limits.
- There is no income cut-off for eligibility for relocation assistance. Anyone who is displaced may be entitled to URA assistance. **Even people with high incomes are covered by the URA!**
- However, certain households may be eligible for different types of assistance based upon their income level. For example, households who are below the very low income limit may be able to receive a Section 8 Certificate or Voucher.

GENERAL ASSISTANCE REQUIREMENTS

Handbook 1378, Paragraphs 2-5, 3-2, 3-3, 3-4, and 3-5

- **Advisory Services.** Includes timely notices, information booklets, explanation of assistance, referrals to comparable housing, referrals to social services, counselling and advice on rights under the Fair Housing Act.
- **Replacement Housing Assistance.** Replacement Housing Assistance is available to both renters and homeowners.
 - Assistance is provided in the form of either rental assistance or purchase assistance.

- Rental Assistance may be in the form of a Replacement Housing Payment (discussed below) or, for eligible households, tenant-based rental assistance under Section 8 if it is available. It is a very desirable resource because it lasts longer than 42 months and can increase if the family's income decreases.
- The household (not the grantee) has the right to choose whether rental assistance is provided through a Replacement Housing Payment or through Section 8.

□ **Moving and Related Expenses.** The displaced person has the option of:

- A payment for actual reasonable moving and related expenses; or
- A moving expense and dislocation allowance based on a Department of Transportation (DOT) schedule that is published periodically.

For Michigan grantees:

<u>Occupant Owns Furniture</u>								
<u>Number of Rooms of Furniture to Move:</u>								
1	2	3	4	5	6	7	8	Each add'l room
\$275	\$450	\$600	\$700	\$825	\$925	\$1050	\$1150	\$100

<u>Occupant Does Not Own Furniture</u>	
First room:	\$250
Each add'l room:	\$35

Note: This DOT schedule has been in effect since 1991. It is updated periodically. When changes are made, all grantees will receive a revised schedule.

REPLACEMENT HOUSING ASSISTANCE -- RENTERS

Handbook 1378, Paragraphs 3-4 and 3-5

General Policy

- ☐ The amount of the Replacement Housing Payment a displaced tenant receives varies depending upon whether the family was in occupancy more or less than 90 days prior to the date of execution of the agreement. (See the chart on the following page for the two formulas.)
- ☐ The Replacement Housing Payment is intended to provide affordable housing for a 42 month period. Although the URA regulations mention a \$5,250 limitation on payments, it also requires that persons receive the calculated payment. Therefore, families are entitled to the full 42 months of assistance even though the amount may exceed \$5,250 [3-4b(2)].
- ☐ The payment to which the family is entitled is calculated using the lower of the cost of the family's actual new unit (including estimated utilities) or a **comparable replacement dwelling** [3-4b(1)].
- ☐ Cash rental assistance must be provided in installments, unless the tenants wishes to purchase a home.
 - If the displaced tenant wishes to purchase a home, the payment must be provided in a lump sum so that the funds can be used for a downpayment, including incidental expenses [3-4c].
 - All of the payment must be used for the home purchase [3-4c(5)].
- ☐ Claim Form

HUD-40058 (Appendix 14 of Handbook 1378) is used to compute the rental assistance or the downpayment assistance.

Replacement Housing Payment Calculation

ASSISTANCE FOR TENANTS IN OCCUPANCY MORE THAN 90 DAYS	ASSISTANCE FOR TENANTS IN OCCUPANCY LESS THAN 90 DAYS
<p>Replacement Housing Payment makes up (for a 42 month period) the difference between:</p> <ul style="list-style-type: none"> <input type="checkbox"/> the lesser of rent and estimated utility costs for the replacement dwelling or comparable unit; and <input type="checkbox"/> the lesser of: <ul style="list-style-type: none"> • 30% of the tenant's average monthly gross income, or • the monthly rent and estimated average utility costs of the displacement dwelling • the welfare rent (in as-paid welfare localities only) 	<p>Replacement Housing Payment makes up (for a 42 month period) the difference between:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The lesser of rent and estimated utility costs for the replacement dwelling or comparable unit; and <input type="checkbox"/> 30% of the tenant's average monthly gross income <p>Note that the "old rent" does not enter into the calculation.</p>

EXAMPLE: URA Replacement Housing Payment - Tenant

\$600 Rent and utilities at actual replacement dwelling
\$500 Rent and utilities at comparable replacement dwelling
Choose the lesser: \$500

\$400 Rent and utilities at the displacement dwelling
\$300 30% of gross monthly income
Choose the lesser: \$300

Replacement Housing Payment is \$500 - \$300 = \$200
x 42 months
\$8,400

DISPLACEMENT UNIT RENT

REPLACEMENT UNIT RENT

ABILITY TO PAY

COMPARABLE UNIT RENT

EXERCISE

Compute the Replacement Housing Payment for the following tenants assuming they have been in occupancy more than 90 days.

Fred and Wilma Flintstone familyRent/Utilities Information

\$475 Displacement Unit Rent
\$ 60 Estimated Utilities Displacement Unit
\$600 Comparable Rent
\$605 Replacement Unit Rent
\$ 65 Estimated Utilities Replacement &
Comparable Unit

Household Income Information

\$30,000 Gross Annual Income

Barney and Betty Rubble familyRent/Utilities Information

\$475 Displacement Unit Rent
\$ 60 Estimated Utilities Displacement Unit
\$ Comparable Rent (not established by grantee)
\$650 Replacement Unit Rent
\$ 65 Estimated Utilities Replacement &
Comparable Unit

Household Income Information

\$18,000 Gross Annual Income

BLANK - insert completed form from Handbook for Flintstone family

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ANSWERS REPLACEMENT HOUSING PAYMENT EXERCISE

Rubble Family

Rent/Utilities Information

\$475 Displacement Unit Rent
 \$ Comparable Rent (not established by grantee)
 \$650 Replacement Unit Rent
 \$ 60 Estimated Utilities Displacement Unit
 \$ 65 Estimated Utilities Replacement &
 Comparable Unit

Household Income Information

\$18,000 Gross Annual Income

\$535 Displacement Unit Rent/Utilities (475+60)
 \$450 30% of monthly gross income ($\$18,000 \div 12 \times .30 = \$$)

\$450 Choose the lesser of the above

\$ Comparable rent/utilities (not established)
 \$715 Replacement unit rent/utilities ($\$650 + 65$)

\$715 Choose the lesser of the above

Calculation of Replacement Housing Payment:

\$715 Replacement unit rent/utilities
450 Displacement unit rent/utilities
 \$265 Monthly replacement housing payment

$\$265 \times 42 \text{ months} = \$11,130$

PAYMENT FOR MOVING AND RELATED EXPENSES

Handbook 1378, Paragraph 3-2

- ☐ Displaced households may choose to receive payment for moving and related expenses either by:
 - Reimbursement of Actual expenses, OR
 - Receipt of a Fixed Payment based upon a schedule established by Department of Transportation (DOT).

Actual Expenses

- ☐ Based upon the grantee's determination that the expenses are reasonable and necessary, moving and related expense payments may include [3-2a]:
 - Transportation of the displaced person and personal property. (This may include reimbursement at the current mileage rate for personally owned vehicles that need to be moved). Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.
 - Packing, crating, uncrating and unpacking of the personal property.
 - Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.
 - Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.
 - Insurance for the replacement value of the property in connection with the move and necessary storage.
 - The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft or damage is not reasonably available.

□ Ineligible expenses include [3-2a(7)]:

- Interest on a loan to cover moving expenses; or
- Personal injury; or
- Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or
- The cost of moving any structure or other real property improvement in which the displaced person reserved ownership; or
- Costs for storage of personal property on real property owned or leased by the displaced person before the initiation of negotiations.

□ Fixed Moving Expense and Dislocation Allowance

- A person displaced from a dwelling or a seasonal residence may, at his or her discretion, choose to receive a moving expense and dislocation allowance as an alternative to a payment for actual reasonable moving and related expenses [3-2b(1)].
- This allowance is determined according to the applicable schedule of allowances published by the Federal Highway Administration [3-2b(1)].
- The allowance reflects the number of rooms in the displacement dwelling (which may include outbuildings) and whether the displaced person owns and must move the furniture. If a room contains an unusually large amount of personal property (e.g., a crowded basement), the Agency may increase the payment accordingly (i.e., count it as two rooms). A copy of the current schedule is provided in the References section of this Coursebook [3-2b(1)].
- Occupant of Dwelling with Congregate Sleeping Space. The moving expense for a person displaced from a permanent residence with congregate sleeping space ordinarily utilized by three or more unrelated persons is \$50 [3-2b(2)].
- Homeless Persons. A displaced "homeless" person (e.g., the occupant of an emergency shelter) is not considered to have been displaced from a permanent residence and, therefore, is not entitled to a fixed moving expense and dislocation allowance. (Such a person may, however, be eligible for a payment for actual moving expenses.) [3-2b(3)].

□ Displaced Public Housing Tenants [3-2c]

- Whenever a public housing tenant is offered the opportunity to relocate to a comparable replacement public housing unit, the Public Housing Authority may, at its discretion, elect to perform the move (with its own staff or through private contractors) at no cost to the person. In such cases, the tenant is entitled to a moving expense and dislocation allowance of \$50.
- If the Public Housing Authority does not elect to take full responsibility for the move, the tenant has the option to choose either payment for actual moving and related expenses or the applicable fixed moving expense and dislocation allowance. (NOTE: This policy covers displacement under the URA and not "general transfers.")

- Optional Claim Form. A copy of form HUD-40054, "Claim for Moving and Related Expenses -- Families and Individuals," is contained in Appendix 11, Handbook 1378. The form is optional; however if the form is not used, equivalent documentation must be included in the grantee's files.

OPTIONAL RELOCATION ASSISTANCE

Grantees may use CDBG funds or HOME funds (in HOME project only) to provide relocation assistance beyond that required to persons covered by the regulations. If the additional assistance is not required by state or local law, the grantee must adopt a written policy describing the optional relocation assistance and provide for equal relocation assistance within each class of displaced persons.

EXAMPLE: Optional Relocation.

The regulations permit the grantees to notify persons who move in after the application is submitted that they may be displaced or that the rent may increase after rehabilitation and that they are not eligible for relocation benefits and services. In certain circumstances a grantee might want to provide optional relocation assistance to such a person (e.g., an individual whose alternative is a homeless shelter)

RIGHTS OF RESIDENTS WHO REMAIN IN THE PROJECT

RENT BURDEN/ECONOMIC DISPLACEMENT

Handbook 1378, Paragraph 1-8b(6)(b)1 and Chapter 8

- ☐ Tenants who are intended to remain in the project must receive the offer of a "suitable" unit which can be rented at an "affordable" price [1-8b(6)(b)1(ii)].
- ☐ Tenants who moves permanently after execution of the agreement because they did not receive such an offer are considered "economically displaced".

HOW MUCH IS TOO MUCH?

Handbook 1378, Paragraph 1-8b(6)(b)1(ii) and Chapter 8

- ☐ If there is no increase in rent, the unit is considered affordable and the tenant is not considered "rent burdened" -- even if the percentage of income that the family is paying is quite high [1-8b(6)(b)1(ii)].
- ☐ For most programs, if the rent is increased as a result of federal assistance, it may not exceed 30% of gross monthly household income. A family whose increased rent exceeds this threshold is "rent burdened." If the family moves permanently from the project as a result, it is considered "economically displaced" [1-8b(6)(b)1(ii)].
- ☐ "Rent" for this purpose means gross rent -- the rent paid to the owner plus an estimate for utilities paid by the tenant. [\$550 (Rent Paid to Owner) plus 65 (Estimated cost of tenant-paid utilities) equals \$615 (Gross rent).]

HOW LONG MUST UNITS REMAIN AFFORDABLE?

Handbook 1378, Paragraph 1-8b(6)(b)1(ii) and Chapter 8

Regulations are not specific on this point. However, HUD expects grantees to deal with the "intent" of the URA requirements. In general HUD envisions the following:

- ☐ In-place tenants should be offered a new lease, presumably for one year, at the time of rehabilitation completion. Any increase in rents caused by the rehabilitation would be reflected at that time.
- ☐ An owner and tenant could agree to continue an existing lease, but the grantee would have to determine on an individual basis whether the terms of this lease meet the test of avoiding rent increases to the family as a result of the rehabilitation.

- Any rent increases that occur subsequent to the initial rent increase are presumably based upon market conditions and not based upon rehabilitation costs. An owner may not keep rents artificially low at the time of rehabilitation completion and then subsequently raise the rents dramatically. This would provide a tenant who moved with a basis for a claim that he/she were a "displaced person."

TO AVOID ECONOMIC DISPLACEMENT

Handbook 1378, Paragraph 1-8b(6)(b)1(ii) and Chapter 8
--

- To avoid economic displacement, eligible lower income tenants may be offered tenant-based assistance to make units affordable.
- Tenant-based assistance includes Section 8 Rental Certificates or Rental Vouchers. If your agency operates a HOME Tenant-Based Assistance program, it may also be used if there is an expectation that assistance will be renewed after the initial two-year period.
- Rent burdened families offered such assistance before they move may use the assistance in the project or move. BUT they are not considered displaced.
- Tenant-based assistance can be provided only if the affected family is eligible under program rules. In general, to be eligible the family's income must not exceed the Section 8 Lower Income limit.

ECONOMIC DISPLACEMENT EXAMPLES
USING 30% OF GROSS INCOME AS THE THRESHOLD

Example 1: Family is Not Rent Burdened/Economically Displaced

\$400	Pre-rehab Unit Rent	\$30,000	Gross Income
<u>50</u>	<u>Estimated Average Utilities</u>	$\$30,000 \div 12 \text{ months} \times 0.30 = \750	
\$450	Pre-rehab Unit Gross Rent		

\$500	Post Rehab Rent
<u>50</u>	<u>Estimated Average Utilities</u>
\$550	Post Rehab Gross Rent

Although the family's rent will increase the family is not rent burdened because the new rent plus utilities (\$550) does not exceed 30 percent of gross income (\$750).

Example 2: Family is Rent Burdened/Economically Displaced

\$550	Pre-rehab Unit Rent
<u>60</u>	<u>Estimated Average Utilities</u>
\$610	Pre-rehab Unit Gross Rent

\$25,000	Gross Income
$\$25,000 \div 12 \times 0.30 = \625	

\$580	Post Rehab Rent
<u>60</u>	<u>Estimated Average Utilities</u>
\$640	Post Rehab Gross Rent

Family is rent burdened. The rent has increased and the new rent plus utilities (\$640) exceeds 30 percent of gross income (\$625).

EXERCISE

DETERMINING RENT BURDEN
(Using 30% of Gross Income Threshold)

BACKGROUND INFORMATION

- (1) All families have four household members
- (2) Section 8 Very Low Income Limit in Lake Ohmigosh for four person household = \$17,250
- (3) Families A and B live in two bedroom units; utility allowance \$50.
- (4) Families C and D live in three bedroom units; utility allowance \$60.
- (5) Post rehab rents are \$375 and \$485 respectively for two and three bedroom units.

Which of the following families are rent burdened?

Family A. (2 BR)

\$17,200 Gross Income
\$ 350 Current Rent

Family B. (2BR)

\$16,000 Gross Income
\$ 350 Current Rent

Family C: (3BR)

\$21,000 Gross Income
\$ 425 Current Rent

Which families probably qualify for Section 8 assistance? _____

RENT BURDEN EXERCISE ANSWERS

Which of the following families are rent burdened?

Family A. (2 BR)

\$17,200 Gross Income
\$ 350 Current Rent

$$\$17,200 \div 12 \text{ months} \times .30 = \$430$$

Pre Rehab Gross Rent: $\$350 + 50 = \400

New Gross Rent: $\$375 + 50 = \425

Family A is not rent burdened.
New gross rent does not exceed
30% of gross income.

Family B. (2BR)

\$16,000 Gross Income
\$ 350 Current Rent

$$\$16,000 \div 12 \text{ months} \times .30 = \$400$$

Pre Rehab Gross Rent $\$350 + 50 = \400

New Gross Rent $\$375 + 50 = \425

Family B is rent burdened.
New Gross Rent exceeds 30% of
gross income.

Family C: (3BR)

\$21,000 Gross Income
\$ 425 Current Rent

$$\$21,000 \div 12 \text{ months} \times .30 = \$525$$

Pre Rehab Gross Rent: $\$425 + 60 = \485

New Gross Rent: $\$485 + 60 = \545

Family C is rent burdened.

New gross rent exceeds 30%
of gross income.

Which families probably qualify for tenant-based assistance? A and B would qualify based upon the Section 8 Income Limit. BUT Family A could not be given Section 8 assistance to remain because they are not rent burdened.

NOT ALL PROGRAMS USE 30%

Handbook 1378, Paragraph 1-8b(6)(b)1(ii) and Chapter 8

- Some HUD programs use different thresholds to determine rent burden. For example, the HOME program uses the 30% of gross income threshold for tenants whose incomes are above the Section 8 Lower Income Limit and the Section 8 *Total Tenant Payment* (TTP) as the threshold for tenants at or below the Section 8 Lower Income Limit.
- TTP is the greater of:
 - 30% of adjusted income
 - 10% of gross monthly income
 - Welfare Rent (in as-paid states and communities only)

ECONOMIC DISPLACEMENT EXAMPLES
USING TOTAL TENANT PAYMENT AS THE THRESHOLD

Tenant Is Rent Burdened/Economically Displaced

\$400	Pre-rehab Unit Rent	\$20,000	Gross Income
<u>50</u>	<u>Estimated Average Utilities</u>	<u>\$ 1,440</u>	<u>Adjustments (\$480 x 3)¹</u>
\$450	Pre-rehab Gross Rent	\$18,560	Adjusted Income
\$500	Post Rehab Rent	$\$20,000 \div 12 \text{ months} \times .10 = \167	
<u>50</u>	<u>Estimated Average Utilities</u>	$\$18,560 \div 12 \text{ months} \times .30 = \textbf{\$464}$	
\$550	Post-rehab Gross Rent	Welfare Rent NA	

TTP = \$464

Family is rent burdened. The rent increases and new rent plus utilities (\$550) exceeds the Total Tenant Payment (\$464).

When calculating TTP, \$480 is subtracted for each dependent. For other adjustments to gross income, see chapter 3.

¹ The adjustment is for 3 dependents. See end of chapter for additional information.

OTHER RIGHTS OF TENANTS WHO WILL REMAIN IN THE PROJECT

Handbook 1378, Paragraph 1-8b(6)(b)2, 1-8b(6)(b)3 **and 2-4b**

Temporary Relocation

- ☐ Residents who will remain in the project after rehabilitation may be required to move temporarily during rehabilitation [2-4b].
- ☐ The temporary dwelling must be suitable and decent, safe and sanitary -- but not necessarily comparable. All other conditions of the move must be "reasonable" [2-4b(2)].
- ☐ In addition to the Notice of Nondisplacement discussed earlier, the resident must, as a minimum, receive:
 - Reasonable advance written notice of the date and approximate duration of the planned temporary move [2-4b(2)].
 - Information about the terms and conditions under which the tenant will be returning to the unit when the project is completed [2-4b(2)].
 - Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary move including any increase in monthly rent/utility costs. (No claim form has been developed by HUD, but adequate documentation for reimbursements should be retained in grantee files.) [2-4b(1)].

Permanent Moves Within the Project

- ☐ Tenants may be allowed to remain in a project after rehabilitation, but not necessarily in the same unit.
- ☐ Permanent moves within the same project must be to suitable, decent, safe and sanitary -- but not necessarily comparable -- units.
- ☐ In addition to the Notice of Nondisplacement discussed above, the resident must, as a minimum receive:
 - Reasonable advance written notice of the date of the planned move to an alternate unit.
 - Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.
- ☐ The rent plus utilities of the permanent new unit within the project must not exceed the greater of the tenants old rent plus utilities or a specified portion of income depending upon the HUD-assisted program (usually TTP or 30% of gross income.) [Chapter 8].

RENTAL REHABILITATION PROGRAM TENANT SURVEY

Name of Tenant _____

Name of Owner _____

Project Address _____

Apartment # _____

Bedrooms _____

Data Privacy Act:

The information being collected is considered private and will not be available to the public. This information will be used only to determine eligibility for the owner to receive funds under the Rental Housing Program. Not supplying the requested information may jeopardize the rehabilitation project.

Female Head of Household: Yes NO

Answer "yes" if the household head is a female who is single, separated, divorced, or widowed and there are one or more minor children living with her.

Race/Ethnicity of Head of Household:

- ☐ White, not of Hispanic origin
- ☐ Black, not of Hispanic origin
- ☐ American Indian or Alaskan Native
- ☐ Hispanic
- ☐ Asian or Pacific Islander

Special Characteristics of Household: (i.e., disabled, elderly, etc.) _____**Family Income (List all occupants and source of income)**

NAME:	AGE:	SEX (M/F)	ANNUAL INCOME:	NAME AND ADDRESS OF INCOME SOURCE
TOTAL GROSS ANNUAL INCOME				
TOTAL INTEREST EARNED				
PERCENT OF RENT TO INCOME				

PAGE 2 - TENANT SURVEY

Initial Date of Lease: _____ Term of Lease: _____

Monthly Rent: _____ Ave. Monthly Utilities Expense: Gas _____ Elec. _____ Gross Rent: _____

Is Household currently receiving rental assistance? Y N If yes, what type?

TENANCY INFORMATION:

1. _____ I have no intention of moving within the next 6-9 months.
2. _____ I anticipate moving within the next 6-9 months because _____.

LEAD BASED PAINT/GENERAL INFORMATION NOTICE STATEMENT

I, _____, hereby certify that I have received the publication "Watch out for Lead-Based Paint Poisoning" and the General Information Notice for In-Place Tenants, and that I have read and understood the information.

I/we certify that all statements on this application are true and correct to the best of my/our knowledge.

I authorize program representatives and contractors the right to access the property to be improved for the purpose of the deferred loan program and to take photographs of the structure before and after rehabilitation.

Signature of Tenant

Date

SECTION 8 INCOME DEFINITIONS

Why do we need to know about Section 8 Income Definitions?

- ✓ Low-income households' ability to pay is calculated using TTP in the HOME program. It becomes the factor in determining if economic displacement is triggered.
- ✓ 104(d) Replacement Housing Payments are calculated using TTP.

ANNUAL INCOME (GROSS INCOME)

Handbook 1378, Paragraph 7-21

- Annual Gross Income has a specific definition under the Section 8 program. The definition includes a number of inclusions and exclusions (see pages 4-3 and 4-4). Annual Gross Income is "anticipated" for the next 12 months, based upon current circumstances or known upcoming changes.
- Assets are handled by counting income from assets in the computation of annual income. Assets above and below \$5,000 are treated differently.
 - If the family's assets are \$5,000 or less, actual income from assets (e.g., interest on a checking account) is counted as annual income.
 - If the family's assets are greater than \$5,000, income from assets is computed as the greater of:
 - actual income from assets, or
 - imputed income from assets based on a passbook rate.

If a family disposes of assets for less than fair market value, the value of the asset disposed of (market value less value received) must be counted for two years.

These procedures are followed to (1) eliminate the need for an assets limitation and (2) penalize people who give away assets for the purpose of receiving assistance or paying a lower rent.

- Monthly gross income is Annual Gross Income divided by 12 months.

INCOME INCLUSIONS AND EXCLUSIONS

INCOME INCLUSIONS

Note: These definitions are based upon 1989 regulations. When future legislative changes are made to the definition of Annual Income, the change will be published in the Federal Register and agencies will be given 60 days from the date of publication to implement the changes.

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the Family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as a deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the Family has Net Family Assets in excess of \$5,000, Annual Income shall include the greater of the actual income derived from Net Family Assets or a percentage of the value of such Assets based on the current passbook savings rate, as determined by HUD; (See page 4-5)
- (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;
- (5) Payments in lieu of earnings, such as unemployment, worker's compensation and severance pay (but see paragraph (3) under Income Exclusions);
- (6) Welfare Assistance. If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the amount of Welfare Assistance income to be included as income shall consist of:
 - (i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (ii) The maximum amount that the Welfare Assistance agency could in fact allow the Family for shelter and utilities. If the Family's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage;
- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
- (8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the Family, spouse, or other person whose dependents are residing in the unit (but see paragraph (7) under Income Exclusions);

INCOME EXCLUSIONS

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children;
- (3) Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (but see paragraph (5) of Income Inclusion);
- (4) Amounts received by the Family that are specifically for, or in reimbursement of, the cost of Medial Expenses for any Family member;
- (5) Income of a live-in aide;
- (6) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of the student. Any amounts of such scholarships or VA educational benefits not used for the above purposes that is available for subsistence are to be included in income;
- (7) The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire;
- (8)
 - (i) Amounts received under training programs funded by HUD;
 - (ii) Amounts received by a Disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS); or
 - (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- (9) Temporary, nonrecurring or sporadic income (including gifts); or
- (10) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. The following is a list of types of income that qualify for that exclusion (9/27/89 regulations):
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;
 - (b) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (employment through VISTA; Retired Senior Volunteer Program, Foster Grandparents Program, youthful offenders incarceration alternatives, senior companions);
 - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(a));
 - (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 259e);
 - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
 - (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act;
 - (g) Income derived from the disposition of funds of the Grand River Band of Ottawa Indians;
 - (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-1408) or from funds held in trust for an Indian tribe by the Secretary of Interior (25 U.S.C. 117);
 - (i) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087 uu);
 - (j) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).
 - (k) Any earned income tax credit to the extent it exceeds income tax liability.
 - (l) Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other funds established pursuant to the settlement in the In Re Agent Orange product liability litigation, MDL No. 381 (E.D.N.Y)
 - (m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 USC 9858q).
 - (n) Payments received under the Maine Indian Claims Settlement Act of 1980.

ASSETS

A. ASSETS INCLUDE:

1. Amounts in savings accounts and six month average balance for checking accounts.
2. Stocks, bonds, savings certificates, money market funds and other investment accounts.
3. Equity in real property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset. [Do not include for HOME Homeowner Rehabilitation Program]
4. The cash value of trusts that are available to the household.
5. IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in a penalty.
6. Contributions to company retirement/pension funds that can be withdrawn without retiring or terminating employment.
7. Assets which, although owned by more than one person, allow unrestricted access by the applicant.
8. Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims.
9. Personal property held as an investment such as gems, jewelry, coin collections antique cars, etc.
10. Cash value of life insurance policies.
11. Assets disposed of for less than fair market value during two years preceding certification or recertification.

B. ASSETS DO NOT INCLUDE:

1. Necessary personal property, except as noted in A.9.
2. Interest in Indian trust lands.
3. Assets that are a part of an active business or farming operation.

NOTE: Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the applicant's/tenant's main occupation.

4. Assets not accessible to the family and which provide no income for the family.
5. Vehicles especially equipped for the handicapped.
6. Equity in owner-occupied cooperatives and manufactured homes in which the family lives.

Count as income

1. Actual income from assets if total assets are \$5,000 or less;
2. If assets are more than \$5,000, the greater of
 - actual income from assets,
 - or
 - total assets x passbook rate

EXAMPLE OF SECTION 8 INCOME CALCULATIONS

THE FAMILY: The Cleavers: Ward (40), June (39), Wally (14) and Beaver (7)

FAMILY INCOME:	Source	Annual Amount
Ward	Salary	\$22,800
	Interest	\$ 200
June	Babysitting	\$ 4,500
Wally	Paper Route	\$ 1,200

The family has \$4,000 in a savings and checking account.

FAMILY EXPENSES:

Medical/Dental:	\$4,000	Ward's insurance policy does not include dental
Child Care	\$1,660	Babysitter while June goes to school on Saturdays to get her Associates Degree (Ward works on Saturdays)

SAMPLE FORMAT FOR COMPUTING INCOME AND TTP**PART I: SUMMARY OF FAMILY INCOME DATA**

1. Name Ward Cleaver	2. Identification:
-------------------------	--------------------

ASSETS:

Family Member	Asset Description	Current Market Value	Income from Assets
Ward	Savings/Checking	4,000	200
3. Total Net Family Assets		3. 4,000
4. Total actual asset income			4. 200
5. If line 3 is greater than \$5,000, multiply line 3 by 0.055 and enter result here; otherwise, leave blank.			5. N/A

ANTICIPATED ANNUAL INCOME:

Family Member	a. Wages/Salaries	b. Benefits/Pensions	c. Public Assistance	d. Other Income	e. Asset Income
Ward	22,800				Enter the greater of lines 4 or 5 below
June	4,500				
6. Totals	a. 27,300	b.	c.	d.	e. 200

7. Enter total of items 6a. through 6e. This is <u>Annual Income</u>	7. 27,500
--	-----------

Note: Wally's income was not counted because earned income of minors is not counted.

ADJUSTED INCOME

Handbook 1378, Paragraph 7-22

Adjusted income, is computed by deducting from Annual Gross Income the following:

- ☐ For all households:
 - \$480 for each **dependent** (A dependent is a person, other than the head or spouse, who is under 18, or handicapped or disabled, or a full-time student.)
 - Reasonable **child care expenses** (for children 12 and under) that enable a family member to work or go to school.
 - Expenses (in excess of 3% of annual gross income) for the **care of a handicapped or disabled** family member that enable that person or another person to work (includes care attendant and necessary equipment and apparatus).
- ☐ For elderly household only:
 - \$400 per **elderly household** (head or spouse is 62 or older, handicapped or disabled).
 - **Medical expenses** in excess of 3% of annual income that are not reimbursed by insurance (or any other source) or other sources.
- ☐ Monthly adjusted income is Annual Adjusted Income divided by 12 months.

TOTAL TENANT PAYMENT**TTP FORMULA**
Handbook 1378, Paragraph 7-20

Total Tenant Payment is the greater of [7-20b]:

- ☐ 30% of adjusted monthly income.
- ☐ 10% of gross monthly income.
- ☐ Welfare rent (in as-paid states and jurisdictions. Michigan is not one of these).

PART II: COMPUTING ADJUSTED INCOME

8. Annual Income (line 7).

8.	27,500
----	--------

9. Number of family members (except head or spouse) under 18, disabled, handicapped or full-time students.

9.	2
----	---

10. Multiply line 9 by 480.

10.	960
-----	-----

11. Child care deduction (reasonable expenses for children 12 and under)

11.	1,660
-----	-------

[If this family has Handicapped Assistance Expense or if this family is elderly, proceed with line 12; otherwise, skip to line 20]

12. Enter Handicapped Assistance Expense.

12.

13. Multiply line 8 by 0.03.

13.

14. Subtract line 13 from line 12, if negative, enter 0.

14.

15. Enter amount earned by family members which was dependent upon the Handicapped Assistance Expenses.

15.

16. Enter the lesser of lines 14 or 15. This is the Handicapped Assistance Allowance.

16.

*** Fill in lines 17 through 19 for elderly families only. ***

17. Energy total medical expenses.

17.

18. If line 14 is greater than 0, copy the amount on 17 to this line; otherwise, add line 12 to line 17 and subtract line 13.

18.

19. Enter \$400

19.

20. Add lines 10, 11, 16, 18 and 19.

20. 2,620

21. Subtract line 20 from line 8. This is Adjusted Income.

21. 24,880

PART III: COMPUTING TOTAL TENANT PAYMENT

22. Divide line 21 by 12 months and multiply the result by 0.3.

22. 622

23. Divide line 8 by 12 months and multiply the result by 0.1.

23. 229

24. Enter the Welfare Rent if it applies.

24. N/A

25. Enter the largest of lines 22, 23 and 24. This is the computed Total Tenant Payment.

25. 622

Note: Medical expenses were not deducted because neither the head nor spouse is handicapped, disabled or elderly. June did not get counted as a dependent because she is the spouse and cannot be a dependent, even if she were going to school full time.

ACQUISITION

OVERVIEW

APPLICABILITY

Handbook 1378, Chapter 5

- ☐ URA acquisition rules cover all involuntary purchases by a grantee. Because voluntary sales are negotiated between the seller and the grantee without the threat of eminent domain or condemnation, they are not regulated by URA except for certain notification provisions outlined below.
- ☐ Flood Buy-out acquisition is regulated by its own regulations.
- ☐ Permanent easements that allow public utilities or roads to cross private property are also governed by these regulations. Temporary easements during construction are not covered by URA.
- ☐ Section 104(d) regulations do not apply to acquisition.

WHAT MAKES A TRANSACTION VOLUNTARY?

Handbook 1378, Paragraph 5-1, 5-8, and 5-16

- ☐ In general, URA recognizes three potential types of arms length voluntary purchases:
 - (1) Purchases where the grantee can exercise the power of eminent domain but agrees in writing not to do so [5-1a(1)].
 - (2) Purchases where the grantee does not have the power of eminent domain [5-1a(2)].
 - (3) Purchases of property from government agencies (Federal, State, or local) if the purchasing grantee does not have the power of condemnation [5-1a(3)].

The definition of voluntary sale varies across these three types of purchases.

☐ **Grantees with the Power of Eminent Domain**

In order to be considered voluntary, purchases by grantees with the power of eminent domain must meet all of the following criteria: (See pages 16-19 of this chapter for sample letters to use when acquisition is voluntary under SCDP or HOME.)

- The grantee/recipient tells the owner in writing that it will not use its power of eminent domain to acquire the property [5-1a(1)(a)].
- The grantee must not have a specific site it requires for the program or activity it is planning to undertake. The search for alternative sites may be limited to one general geographic area, but, all owners within the same geographic area must be treated similarly [5-1a(1)(b)].
- To be considered voluntary, the property may not be part of a planned or designated project area where substantially all property within the area is to be purchased within a specific time frame [5-1a(1)(b)].
- The grantee must inform the owner of the fair market value of the property in question [5-1a(c)]:
 - This notice must be in writing and done before a sales contract is signed.
 - No formal appraisal is required. However, the estimate of market value must be done by a person with knowledge of the local market and the grantee's files must include an explanation for the estimate. Different HUD program regulations may require appraisals.

☐ **Grantees Without the Power of Eminent Domain**

A sale to a grantee without the power of eminent domain can be considered voluntary if the grantee notifies the seller (1) that it does not have the power of eminent domain and (2) of its determination of market value estimate for the property [5-1a(2)].

- When feasible, the above noted information must be provided prior to the purchase offer.
- When it is infeasible to deliver the notice before the purchase offer, owners must be allowed to withdraw from the purchase agreement after receipt of the grantee's information.

☐ **Government Property and Grantees without the Power of Condemnation**

Acquisitions are considered arms length voluntary if the property in question is owned by Federal, State, or local government and the grantee does not have authority to acquire property by the power of eminent domain [5-1a(3)].

- ☐ Owners may offer to donate properties and these transactions would also be considered voluntary [5-8]. But:

- They must be informed of their rights under URA.
 - They must waive these rights in a written consent document. Since most owners donate property to write it off for tax purposes, they would need to have an appraisal to establish a value for the IRS.
- URA acquisition rules cover [5-16]:
- fee simple title purchases;
 - acquisition of properties subject to a life estate;
 - leasing, where options allow for extensions of 50 years or more; and
 - purchase of permanent but not temporary easements. (Temporary easements are not really "acquisition" activities and therefore are not URA covered.)
- URA requirements apply to the greatest extent practicable under State law [5-1c]:
- When someone other than the grantee (such as a private developer) is authorized to act on its behalf and the grantee will undertake the purchase if the third party fails to accomplish the acquisition, the acquisition must be treated as a grantee acquisition [5-1d].

URA REQUIREMENTS FOR INVOLUNTARY ACQUISITIONS

BASIC REQUIREMENTS

Handbook 1378, Paragraph 5-2

- ☐ In general, grantees must:
 - Notify owners of the agency's intentions and owner and tenants of their rights;
 - Conduct an appraisal of the property in order to determine its fair market value;
 - Offer just compensation for the property being acquired;
 - Make every reasonable effort to complete the property transaction expeditiously.

NOTIFICATION

Handbook 1378, Paragraphs 5-2b and 1-15a

- ☐ There are two key notices that grantees may need to issue for an involuntary acquisition:
 - The Notice of Interest (or a Notice of Intent to Acquire) tells the owner of the Agency's interest in acquiring the property.
 - Notice of "just compensation" is the written purchase offer. This is the "initiation of negotiations" thereby triggering eligibility for relocation assistance.
- ☐ The chart on page 2-5 highlights the timing of these notices.

INSERT TIMELINE HERE

The Notice of Interest (or Notice of Intent to Acquire)

- The notice of interest should be issued as soon as feasible, following agency identification of the real property in which it has an interest [5-2b].
 - This notice of interest must outline the protections available to the owner and should include information on the grantee's process and obligation in conducting an appraisal.
 - HUD brochure entitled "When a Public Agency Acquires Your Property" (Form HUD-1041-CPD) explains the URA policies. This form is available from field offices.
 - To avoid triggering eligibility for relocation assistance at this time, the notice must tell owners and occupants not to move out and stress that the notice is not an intent to acquire, but only a preliminary statement of interest [5-2b].
- Some jurisdictions use a notice of intent to acquire rather than a notice of interest.
 - If the notice is given as a notice of intent to acquire, occupants who leave after this notice but before the offer of just compensation are still considered displaced persons and are eligible for relocation assistance [5-2b; 1-15a].
 - Thus, jurisdictions should think carefully about whether they want to use a notice of intent to acquire.

Notice of Just Compensation

- After an appraisal determines the market value of the property, grantees should promptly deliver a Notice of Just Compensation to the owners which offers them the full value of just compensation [5-2e]:
 - It is the delivery of this notice that constitutes the initiation of negotiations for relocation assistance related to this purchase [1-15a]
 - The offer must include:
 - A statement of the just value of compensation [5-2e(1)].
 - A description of the property to be acquired [5-2e(2)].
 - Identification of the buildings that are considered a part of this structure [5-2e(3)].
- Although it is not required by Federal law, the owners may also be given a copy of the appraisal report.

APPRAISALS

Basic Requirements

Handbook 1378, Paragraphs 5-2c, 5-3, and 5-4
--

- ☐ The foundation of the offer of just compensation is an appraisal.
- ☐ After the owner has been notified of the grantee's interest in the property a property appraisal must be conducted:
 - Do this appraisal before negotiating with the owner regarding the purchase price [5-2c(1)].
 - The owner or a representative must be given the opportunity to accompany the appraiser while on site [5-2c(1)].
- ☐ Appraisals are defined as written statements setting forth the value of a specific property on a specific date.
 - This analysis must be conducted independently and impartially by a qualified appraiser and must be supported by analysis of relevant market information [5-3a].
 - The fair market value of a partial acquisition is the value of the whole property less the value of the remaining property [5-3c(2)].
 - To the extent possible under law, the appraiser should disregard any enhanced or decreased value to the property to be caused by the upcoming project [5-3c(1)].
- ☐ The URA only requires one appraisal for each property. However, it would be wise to attain at least two separate appraisals for high value acquisitions or for complicated properties [5-2c(2)].
 - Multiple appraisals may help head off future disputes about the purchase price and, if necessary, will strengthen the agency's position during legal negotiations or legal actions.

- Appraisals are not required if [5-2c(1)]:
 - The owner is donating the property and releases the grantee from this obligation after being informed in writing of the right to an appraisal

OR

 - The available data indicates a market value of less than \$2,500
 - This review must be made by a person who is familiar with the area's real estate values.
 - The basis for this determination must be well documented.
 - If the owner wants an appraisal, it must be done.
- Grantees should, in advance of purchasing properties, set out a general policy for conducting appraisals [5-3b].
 - This policy should be based on the standard and common practice as recognized in Nationally recognized appraisal standards.
 - Appraisals must include data and analysis sufficient to support the report's conclusions and estimation of value [5-3b].
 - For the appraisal of simple or low-value properties, a less in-depth analysis and data presentation is required.
- The grantee must establish minimum qualifications for appraisers. The qualifications of the appraisers can vary according to the difficulty of the review. Inexperienced appraisers should not be asked to examine complex properties [5-3e(1)].
- Effective 1/1/93 FIRREA (Financial Institutions Reform, Recovery and Enforcement Act) standards apply to URA. Contract (fee) appraisers making a detailed appraisal must be certified by an appropriate state body [5-3e(1)].
- Appraisers may not have any conflict of interest with the owner or property they are to review [5-3(f)]:
 - This includes direct and indirect ties;
 - Payment for conducting the appraisal may not be tied to the resulting property value; and

- Appraisers cannot also negotiate the value of the subject property with the owner, unless the value is determined to be less than \$2,500.
- Grantees may alter the format and level of documentation for the appraisal, based on individual case circumstances, and should give the appraiser guidance regarding the type of owner; type of property; and improvements at the site [5-3b].

MINIMUM APPRAISAL CONTENTS [5-3b]

- The purpose and function of an appraisal
- A statement of the assumptions and conditions affecting the appraisal
- An adequate description of the property and its physical characteristics
 - This should also include key project information such as: title information, location, zoning, present use, highest and best use, and the five year sales history of the property
- An explanation of all relevant approaches to value
 - If sales data are sufficient, the appraiser should rely solely on the market approach
 - If more than one method is used, the text should reconcile the data
- A description of comparable sales
- A final statement of the real value of the property
 - For partial acquisitions, the appraisal should also give a statement of the value of damages and benefits to the remaining parcel
- The effective date of the valuation and appraisal
- A signature and certification of the appraiser

Review of Appraisals

- After the initial appraisal is conducted, it must be checked by a qualified review appraiser.
- The review appraiser must examine all appraisals to check for accuracy, documentation, and soundness of opinion [5-4a].
- If the review appraiser does not accept an appraisal, it is necessary to seek a second full appraisal.
- If the review appraiser does not agree with the original appraisal and it is not practicable to do a second appraisal, the review appraiser may alter the original appraisal amount [5-4b]:
 - The reasons for the change and the new value must be set out in a certified document [5-4c].
 - The extent of this explanation will vary according to the individual project circumstances [5-4c].

HUD Monitoring of Appraisals

- HUD and the State of Michigan staff understand that appraisal is an art, not an exact science and therefore will not try to re-appraise properties in order to check the accuracy of agency determinations. Rather, State monitors will review the soundness and methodology behind the grantee's appraisal practices and procedures.
- DOC and MSHDA staff will look for evidence of unacceptable appraisal practices.
- When State staff find evidence that appraisals are conducted incorrectly, they may require the grantee to obtain a second, satisfactory appraisal and make a new determination of market value.
- If this new appraisal results in a higher fair market value, the grantee must offer any amount that this new market value exceeds the current offer of just compensation to the owner in writing.

UNACCEPTABLE APPRAISAL PRACTICES

- Failure to properly delineate the property and identify conditions, restrictions, easements, servitude, and reservations affecting the value of the property.
- As required, failure to provide an appropriate analysis of real property improvements
- Inaccurate or inappropriate designation of highest and best use for the property
- Failure to use all relevant means of determining property value. All approaches to fair market value (comparable sales, cost approach, and income approach) must be calculated, if appropriate given property circumstances.
- Inappropriate or inadequate comparable sales. Errors in this area may include selecting inappropriate comparable properties or an inadequate number of comparables.
- Failure to account for or report rent arms-length sales of the property
- Unrealistic adjustments to comparable sales or other inappropriate comparisons
- Use of an unrealistic capitalization rate in the income approach
- Unwarranted reliance on the cost approach to value in a heavily depreciated structure
- Failure to disregard the influence of the proposed project on property value
- Failure to properly account for tenant-owned improvements
- Incorrectly calculating the value of the residential portion of a mixed use complex
- Failure to appropriately value any remaining uneconomic remnant
- Failure to offer the owner the opportunity to accompany the appraiser during the property inspection
- Developing a purchase price based on estimates that are inappropriate at the time of the purchase

OFFERING JUST COMPENSATION

Handbook 1378, Paragraphs 5-2, 5-3, 5-6, and 5-7

- After the appraisal, but before initiation of negotiations, just compensation for the property must be established [5-2d]. *It is this amount which is offered in the Notice of Just Compensation.:*
 - Just compensation may not be less than the appraised fair market value [5-2d].
 - In determining just compensation, to the extent permitted by State law, the grantee may take into account the benefit or detriment that the upcoming project will have on any remainder property at the site [5-2d].
 - If the acquisition will leave the owner with an "uneconomic remnant", the agency must offer to buy the full property. An uneconomic remnant is considered to be a parcel of property which is left after acquisition and has "little or no value" to the owner [5-2k].
 - If the owners retain or remove property improvements from the site, the salvage value of the improvement should be deducted from the offer of just compensation [5-3d].
- Under certain circumstances payments may be made to tenants of an acquired property to compensate for tenant owned improvements. The payments may be made only if [5-5d]:
 - The title to the improvement is assigned to the grantee by the tenant.
 - The owner of the property disclaims all interest in the property improvement. (If the land owner and the tenant cannot agree on the ownership of the improvement, the grantee may institute a condemnation proceeding and allow the courts to make a decision.)
 - The payment does not duplicate any other compensation you have offered.
 - Just compensation for a tenant improvements is the greater of the amount it contributes to the fair market value of the property and the salvage value of the item. If neither of these methods appears fair, the grantee may offer the depreciated value of the item [5-5c].
 - Payments to tenants may also be covered by other State or local laws.

- In addition to payment for the fair market value of the property, owners should also be reimbursed for all costs for transferring title to the grantee, including [5-6]:
 - Costs for recording fees, transfer taxes, documentary stamps, evidence of title, boundary survey, and legal site descriptions, and
 - Costs for prepayment of mortgages and the prorata share of any taxes after effective or actual possession by the grantee.
 - When feasible, incidental expenses should be paid directly rather than forcing the owner to advance the costs [5-6b].
- The owner is also entitled to reimbursement of legal, appraisal, and engineering costs if [5-7]:
 - A court finds that the grantee cannot acquire the property by condemnation.
 - The condemnation proceeding was dropped for any reason other than a settlement.
 - A court rules in the owner's favor in an inverse condemnation proceeding.
- Grantees may authorize an administrative settlement that exceeds the current offer of just compensation [5-2i]:
 - The grantee should document this action with information such as court awards exceeding fair market value, estimated legal costs, or valuation errors.
 - Do not pressure your appraisers to change the value of their estimates.

COMPLETING THE PURCHASE TRANSACTION

- When it is feasible, negotiations should be conducted in person [5-2f].
- Owners have the right to suggest alternatives or additions to the offer of just compensation and offer suggestions for changes in the appraisal [5-2f].
- If the owner's information or suggestions warrant a new appraisal, one must be conducted. A re-appraisal may also be needed if significant time has passed since the original appraisal. If the second appraisal suggests an increase in the fair market value, this must be communicated to the owner. A new offer of just compensation must be made [5-2g].
- Grantees may not take any coercive action (such as advancing the time of condemnation or depositing just compensation funds with the court) to rush or influence the owner's decision [5-2h].

- Grantees may allow an owner or tenant to remain on the purchased site at a fair market rent for the property. However, grantees should ensure that this lease will enable them to legally and readily take possession of the property as individually required by the project plans [5-2m].
- BEFORE taking possession of a property, the owner must be paid the agreed upon price [5-2j]:
 - In the case of a condemnation, monies must be deposited with the court for the owner. This amount should be no less than the fair market value or court award of compensation.
 - Only in exceptional circumstances and the approval of the owner may grantees enter the property before payment.
- If a property is to be taken by eminent domain, initiate formal condemnation proceedings. Grantees cannot require the owner to prove the taking of his property [5-2l].
- Inverse condemnations are takings in fact, but not through legal means. For example, an airport is placed next to a property and the noise from planes makes this property unusable. Even though this property has not been taken through legal means, the use of it has been lost and this owner is entitled to compensation.

CONFLICT OF INTEREST

Handbook 1378, Paragraph 5-9

- A conflict of interest is considered present when the property owner is employed or is an officer of the grantee or is its designated acquisition agent or exercises any other key function in connection with a project [5-9a].
- Grantees should be careful to avoid actual or apparent inappropriate situations caused by these types of purchases and should keep adequate files to document any actions taken in regard to conflict of interest.
- Appropriate safeguards might include [5-9b]:
 - Disclosing any potential conflict.
 - Requesting Department of Employment and Economic Development (DEED) concurrence of appraisals and proposed and final acquisition prices.
 - Acquiring the property through condemnation and allowing a court to decide just compensation. This may be especially appropriate if the owner is unwilling to sell at the appraised fair market value.

PERMANENT EASEMENTS

- ☐ State Law sets the method by which the value of a permanent easement is established. It is often more generous than URA. State Laws consider the following questions:
 - Are there damages to the remaining property?
 - What is the market value of the easement?
- ☐ State Law typically uses the following factors:
 1. It may require payment of full value of the parcel taken
 2. It may add the cost of the damages to the remaining parcels
 3. It may or may not consider the impact (even though it enhances the area) of the project.
- ☐ If there were no State Laws in effect re. easements, Federal Law would require that the grantee pay the value of the land taken plus damages and deduct the value of the enhancement. Check with your agency's attorney for State Laws governing this transaction if the property is not donated.

REPLACEMENT HOUSING ASSISTANCE -- HOMEOWNERS

Handbook 1378, Paragraphs 3-3 and 3-4

Eligibility

- ☐ Only homeowners who qualify as "displaced persons" may receive Replacement Housing Payments. [3-3a]

Example: An owner's home is being acquired because the parcel is needed to provide a parking area for a commercial strip being partially funded with CDBG funds.

- ☐ Homeowners may receive:
 - Moving and related expense payments.
 - Replacement Housing Payments.

Calculation of Replacement Housing Payment

- ☐ *180-Day Homeowner*
 - A displaced homeowner who has owned and occupied the property for at least 180 days immediately before the initiation of negotiations is eligible for a replacement housing payment. [3-3a(1)]
 - The payment includes the difference between [3-4b]:
 - the cost of a replacement dwelling (lesser of the comparable and actual), and
 - the acquisition price of the displacement unit.
 - The payment also includes [3-4b]:
 - any additional mortgage financing costs;
 - reasonable expenses incidental to the purchase.

EXAMPLE: Relocation payment - 180-day Homeowner

Price of actual replacement dwelling	= \$60,000
Price of comparable replacement dwelling	= \$55,000
Lesser	= \$55,000
Acquisition price of displacement dwelling	= \$25,000
Difference: \$55,000 - \$25,000	= \$30,000
Increased financing costs	= \$ 1,000
Incidental costs	= \$ 1,000
Replacement Housing Payment	+ \$32,000

☐ *Homeowners in occupancy 90 - 179 days*

Receive the same assistance as displaced renter (described previously), except this owner can never receive more than a 180-day homeowner would receive. [3-4c(4)]

Caution: Failure to provide timely notices and comparables may result in the computation being done using the actual replacement dwelling regardless of how high the rent or sales price. Good documentation can save headaches and money!

☐ **Claim Form**

HUD-40057 (Appendix 13 of Handbook 1378) is used to compute the 180-day homeowner payment.

Guideform letter for voluntary acquisition by a local agency that has the power of eminent domain. - Leave a copy with the Seller and take one for your files.

Sample- to be printed on Agency Letterhead

Date:

Dear Owner:

The City (or County) of _____ is interested in acquiring the (vacant or occupied) property at address with funding provided by the (Community Development Block Grant Program or by the HOME program.) The purpose of this letter is to inform you of your rights under Federal law when Federal funds are involved in property acquisition.

This is a **voluntary sale**. Activities funded by the (CDBG or HOME program) are covered by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, commonly called "the Uniform Act". The Uniform Act protects persons whose property is taken **involuntarily** or who are forced to move as a direct result of a Federally-assisted project.

However, because this is a **voluntary sale** negotiated between you and the City (or County), and there is **no threat of eminent domain** or condemnation, this sale is not regulated by the Uniform Act except for the following notifications which we must provide to you:

1. The City (or County) of _____ **will not use its power of eminent domain** to take your property if we cannot reach an agreement through negotiations.
2. The fair market value of the property located at _____ has been estimated to be \$ _____. The purchase price that we are offering is \$ _____. You have the authority to accept or reject our offer just as you would in a private transaction.

You, as the seller, are not eligible for relocation assistance under the Uniform Act because:

- A. The proposed sale is considered voluntary, and
- B. The above written information has been provided to you prior to executing a purchase agreement or sales contract.

If you have any questions or require additional information, please contact _____ at _____ between the hours of _____.

Sincerely,

Owner Receipt of Information

I, _____, the owner of the property located at _____, certify that I have received and understood the above information.

Signed: _____

Date: _____

Guideform letter for voluntary acquisition by a First Time Homebuyer without the power of eminent domain. - Leave a copy with the Seller and get one for your files.

Sample- to be printed on Agency Letterhead

Date:

Dear Owner:

The purchase of your property located at _____ is being assisted with funding from the (Community Development Block Grant Program or HOME Program), provided through the City (or County) of _____. The purpose of this letter is to inform you of your rights under Federal law when Federal funds are involved in property acquisition.

This is a **voluntary sale**. Activities funded by the (CDBG or HOME program) are covered by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, commonly called "the Uniform Act". The Uniform Act protects persons whose property is taken **involuntarily** or who are forced to move as a direct result of a Federally-assisted project.

However, because this is a **voluntary sale** negotiated between you and the City (or County), and there is **no threat of eminent domain** or condemnation, this sale is not regulated by the Uniform Act except for the following notifications which we must provide to you:

1. The City (or County) of _____ **will not use its power of eminent domain** to take your property if we cannot reach an agreement through negotiations.
2. The fair market value of the property located at _____ has been estimated to be \$ _____. The purchase price that we are offering is \$ _____. You have the authority to accept or reject our offer just as you would in a private transaction.

You, as the seller, are not eligible for relocation assistance under the Uniform Act because:

- A. The proposed sale is considered voluntary, and
- B. The above written information has been provided to you prior to executing a purchase agreement or sales contract.

If you have any questions or require additional information, please contact _____ at _____ between the hours of _____.

Sincerely,

Owner Receipt of Information

I, _____, the owner of the property located at _____, certify that I have received and understood the above information.

Signed: _____

Date: _____

Sample- to be used as documentation for files**VACANCY CERTIFICATION**

This is to certify that I/we _____ are
the owners/sellers of property located at _____.

On or about the date of _____, I/we entered into a purchase agreement with
_____ for the purchase of the property described above.

At the time of the purchase agreement, I/we certify that the property located at
_____ was vacant of residential or non-residential tenants. I/we
further certify that this property was vacant prior to any verbal and/or written negotiations with
the buyer.

Nothing that I did as part of this sale - or previous to it - caused tenants to vacate and therefore
avoid relocation in a Federally-assisted project.

Name/date:

Name/date:

Flood Property Buyout Requirements

OVERVIEW

Note: The material in this Chapter is only applicable to activities assisted with the 1993 CDBG supplemental appropriation. Other appropriations may have their own requirements regarding acquisition and relocation.

BACKGROUND

12/3/93 Hazard Mitigation and Relocation Assistance Act of 1993; 2/10/94 memo for HUD Regional and Division Directors from Kenneth C. Williams

- Policies implementing the 1993 Hazard Mitigation and Relocation Assistance Act of 1993 have evolved since the legislation was enacted. Information is current as of the end of March, 1994, but changes may continue to be made.
- The information in the following pages is applicable only to acquisition of residential property that is funded as part of the "Qualified Buyer Program" with special funds appropriated by Congress or with regular CDBG funds if the acquisition is part of this specific program.
- The Uniform Relocation Act does not apply to acquisition undertaken under a "Qualified Buyout Program", but there are specific rules to ensure fair and consistent treatment of owners. Tenants who are displaced must be given relocation assistance under 104(d) if they are low-income or may be assisted under an Optional Relocation Policy.

WHAT IS THE "QUALIFIED BUYOUT PROGRAM"?

- This Program, in Minnesota commonly called the "Flood Buyout Program", refers only to:
 - Property damaged by the Midwest floods during 1993, and
 - The property is purchased solely as a result of the flooding, and

(This means acquisition is not intended for another project initially. While communities may develop a park or use for the acquired land eventually, the other use was not the reason for acquisition.)
- No power of eminent domain will be used by the acquiring agency, and

- The State or locality carries out the acquisition, and

(This means that neither a non-profit or private developer nor an individual - other than a person contracted to act on behalf of the jurisdiction - could administer this program.)

- The acquisition is being assisted with funds for disaster relief from the Federal Emergency Management Agency (FEMA) or through other Federal financial assistance programs.

- Owners of property covered by these policies are:

- Residential owner-occupants (homeowners)
- Owners of rental property
- Owners of commercial property

HOW ARE THESE ACQUISITION POLICIES DIFFERENT THAN URA?

- The sale is always voluntary. Therefore, the power of eminent domain is not used. If the seller is not willing to sell under the terms offered, the agency must be prepared to proceed no further. (A copy of a sample offer letter, prepared by HUD, is enclosed at the end of this chapter.)
- Unlike other URA-covered acquisition, this program requires no signed waiver of Relocation Benefits by the seller. This is because the URA does not apply!
- The process for determining the acquisition price is established by the locality. It might be one of the following:
 - The full value of the property prior to the flooding, or
 - A set percent of pre-flood value, or
 - The current value after flooding plus a Replacement Housing Payment under an Optional Relocation Assistance Policy. This policy could take into account such factors as the amount of insurance coverage the owner received and the household income.

It is critical that agencies adopt a written policy - and implement it - that allows all owners to be treated fairly and receive a comparable package of benefits.

104(d) UNDER QUALIFIED BUYOUT PROGRAM:

- ☐ On January 14, 1994, 104(d) coverage for was waived for the following:
 - One-for-one unit replacement of "low-moderate income housing stock", and
 - Owner-occupants (even those with low incomes).
- ☐ Tenants displaced as a result of the acquisition of their rental unit with Flood Buyout funds are covered by 104(d) level of Rental Assistance Payments. (See the following Chapter for calculating these payments.)
 - Only tenants with incomes at or below 80% of median income are covered by 104(d) under any circumstances.
 - Tenants with incomes above 80% of median could be covered (and are strongly encouraged to be) by an Optional Relocation Policy. These benefits may or may not be at URA levels.
 - Tenants who moved from the unit prior to the offer to purchase are not eligible for assistance under 104(d). If they were displaced by the flood it is likely that they received rental assistance from FEMA.
- ☐ If funds are used to acquire properties - other than those given through the CDBG supplemental appropriation for the Flood victims - the agency would need to obtain, as part of a negotiated settlement, a release from owner-occupants of their eligibility for 104(d) level of payments. HUD does not possess the authority to waive 104(d) for activities funded with traditional CDBG dollars.

WHAT IS THE "REPAIR, REPLACE, RESTORE" REQUIREMENT?

- ☐ HUD's position is that all Flood Buyout Program funds received by property owners should be used for the purpose that Congress intended and that no one should receive a windfall.
- ☐ The language of the legislation authorizing the Flood Buyout Program included the requirement that all funds be used to "repair, replace or restore" property damaged by the disaster. This means:
 - All funds received by owners or tenants must go toward housing expense.

- For owners who re-purchase houses, documentation of costs actually incurred toward that re-purchase must be on file. Excess acquisition funds must be returned to DEED.

For example: Flood Buyout acquisition price, based on pre-flood value is \$50,000. Owner gets moving expenses of \$1,500 and buys a home for \$40,000 and puts \$5,000 to rehabilitate it to standard condition. Their total replacement housing cost totals \$46,500. The remaining \$3,500 would have to be returned to the funding agency, in this case, DEED.

- For owners who purchase a mobile home and rent the pad, the cost of the purchase would have to be documented, a copy of the lease would have to be on file, and a certification that the remaining funds would go to pay housing costs to rent the pad.
 - For owners who rent, the amount of funds received through acquisition must be used to pay on-going housing costs. Agencies should obtain a copy of the lease and a certification from the household that funds will be used to pay future rent or future purchase of a home.
- ☐ Owners who rent either a pad for a mobile home or who choose to rent their replacement housing may, at the agency's discretion, pay the rental portion of their claim in either a lump-sum or in installments.
 - ☐ Tenants who continue to rent units must receive their benefits in installments. There is no HUD-prescribed timing of those installments; however, they should not be done in such a way as to blatantly circumvent Congressional intent.
 - ☐ Tenants who purchase homes may receive their assistance in a lump-sum.
 - ☐ Non-residential owners of properties, including investor-owners, must also certify that the acquisition payment they receive will be used in its entirety for the purchase of a different unit - and in the case of residential landlords, the property must be rental housing.

Section 104(d) Requirements

OVERVIEW

BACKGROUND

24 CFR 570.457, 570.496a(c), 570.606(c) and 570.702(f)

- ☐ Section 104(d) requirements may be triggered whenever CDBG or HOME funds are used for a project.
- ☐ Section 104(d) requirements focus on the "loss" of low income housing (both rental and owner occupied) in the community through demolition or conversion.
- ☐ It has two distinct components:
 - PEOPLE: 104(d) specifies relocation assistance for displaced low income families. Section 104(d) does not provide protection or assistance for families with incomes above the Section 8 Lower Income Limit.
 - UNITS: 104(d) requires one for one replacement of low/moderate income dwelling units that are demolished or converted to other use.
- ☐ Key dates:
 - Section 104(d) of the Housing and Community Development Act of 1974, as amended, was enacted in 1988.
 - The interim rule was published 8/17/88 and took effect with the first grant received in fiscal year 1989.
 - The final rule was published July 18, 1990 and became effective October 1, 1990. (See Handbook 1378 for specific implementation instructions.)
 - Section 104(d) applies to HOME as of the signature of PJ's Chief Executive Officer on the PJ's 1994 CHAS submission.

"USE" OF HOME or CDBG FUNDS

"Use" of HOME or CDBG funds in a project involves both direct financing and related expenses associated with a project.

- ☐ Financing or investment of funds for rehabilitation or demolition is considered "use".

Example: CDBG funds are used as a loan to rehabilitate a property.

- ☐ When HOME or CDBG monies are spent for project delivery costs (i.e. program staff or contracted salaries and related project expenses) this is considered "use".

Example: The City of Blue Beak employs a CDBG funded rehabilitation specialist to prepare work write-ups and cost estimates for a 10 unit apartment building that will be converted to a hotel. Even though no SCDP funds will be invested in the rehabilitation, 104(d) is triggered.

- ☐ When CDBG funds are used solely for general program administration (as defined in 24CFR 570.206) or to pay for relocation assistance they are not considered "used" and therefore do not trigger 104(d).

ADMINISTRATIVE REQUIREMENTS

Handbook 1378, Paragraph 7-1

- ☐ Antidisplacement Plan: Each grantee/recipient must adopt and make public its *Residential Antidisplacement and Relocation Assistance Plan* to implement Section 104(d) requirements. A new draft guideform plan was issued by HUD in an Interim Notice during January of 1994. Plans based upon earlier guideforms must be updated to comply with the final regulations when they are approved.
- ☐ Certifications: Every grantee/recipient must certify it is following the Plan before a CDBG grant is made.

SECTION 104(d) TENANT ASSISTANCE AND RELOCATION REQUIREMENTS

WHEN 104(d) TENANT ASSISTANCE RULES APPLY

Handbook 1378, Paragraphs 7-1 and 7-7

- ☐ Whenever:
 - A unit occupied by a lower income person is demolished with HOME/CDBG/UDAG funds, the displaced person is eligible for relocation assistance at the 104(d) levels [7-1b].
 - A HOME/CDBG/UDAG funded conversion displaces a lower income person, the displaced person is eligible for relocation assistance at 104(d) levels [7-1b].
 - A lower income person remains in a project converted with HOME/CDBG/UDAG funds, 104(d) economic displacement rules apply [7-7b(3)(a)].
- ☐ Any displaced person who qualifies for 104(d) assistance is also covered by URA.
- ☐ Non-low income residents of a HOME/CDBG funded project who are displaced (physically or economically) are not eligible for Section 104(d) assistance but are eligible for URA assistance.

KEY DEFINITIONS

- ☐ **Section 8 Fair Market Rents (FMRs)**
 - FMRs are determined by HUD and are published annually in the Federal Register. They are published by bedroom size for individual market areas.
 - They are intended to represent a figure at or below which modest, decent, safe and sanitary housing (including the cost of utilities) can be rented on the private market (approximately the 45th percentile of standard housing occupied by people who have moved within the last two years).

□ **Low/Mod Unit [7-9]**

- A unit that has a market rent (including estimated tenant-paid utilities) that is equal to or below the Section 8 Fair Market Rent is a low/mod unit.
- The determination of a low/mod unit is not based upon the income of the occupant.
 - A unit that rents above the FMR that is occupied by a lower income tenant is NOT a low/mod unit.
 - A unit that rents below the FMR that is occupied by a wealthy person IS a low/mod unit.
- Owner-occupied units are considered. Owner-occupied unit have a "market rent" based upon the rents for comparable units that are being rented.

□ **Demolish** means tear a unit down.

- Any unit occupied by a lower income resident that is demolished with HOME/CDBG/UDAG funds triggers the requirement to provide relocation assistance to the occupant at Section 104(d) levels *[Exhibit 7-1]*.
- Whether or not a demolished unit must be replaced depends upon its condition and how long it has been vacant prior to demolition. (More details provided in the one-for-one replacement section of this Chapter.)

□ **Conversion** includes *[Exhibit 7-1]*:

- Changing the use of the unit (e.g., from permanent rental housing to a hotel or to a non-residential use)
- Rehabilitating a low/mod unit with HOME, CDBG or UDAG assistance causing the post rehab rent to be above the FMR.

Conversion does not occur if the sole project activity is acquisition *[Exhibit 7-1]*. If HOME/CDBG funds are used for any project activity (i.e, acquisition but not the subsequently planned rehabilitation), the project is considered to be funded with HOME/CDBG funds *[7-10a]*.

NOT ALL TENANTS IN 104(d) PROJECTS ARE TREATED THE SAME

Example 1: A project is to be converted with CDBG dollars from an apartment building to a hotel. Rents before conversion are below the FMR. Unit A is occupied by a lower income person and unit B is not.

- Section 104(d) is triggered because a unit that previously was a part of the permanent low income housing stock has been eliminated.
- The displaced occupant of unit A is eligible for Section 104(d) relocation assistance because the household is a low income household.
- The displaced occupant of unit B is not eligible for Section 104(d) relocation assistance because the household is not low income. This household is, of course, eligible for URA assistance.

Example 2: An 4 unit apartment complex with two and three bedroom units is being rehabilitated. Two of the 4 completed units will be HOME assisted.

UNITS	BEFORE REHAB	AFTER REHAB
<u>Units 101</u> Two bedroom unit; Low Income Tenant	Rented below the FMR	HOME Assisted; Rents below the FMR
<u>Units 102</u> Three bedroom unit; Tenant Above Low Income	Rented below the FMR	HOME Assisted; rents below the FMR
<u>Unit 103</u> Two bedroom unit; Low income tenant	Rented below the FMR	NOT HOME Assisted; rents above the FMR
<u>Unit 104</u> Three bedroom unit; Tenant Above Low Income	Rented below the FMR	NOT HOME Assisted; rents above the FMR

- Tenant in Units 101 and 102 are not eligible for Section 104(d) assistance because neither unit was demolished or converted.
- The tenant in Unit 103 is eligible for Section 104(d) assistance because (1) the unit was converted and (2) the tenant is low income.
- The tenant in Unit 104 is not eligible for Section 104(d) assistance because, although the unit was converted, this is not a low income household. This household would be eligible for URA protections.

SECTION 104(d) AND URA: SIMILARITIES

Both URA and 104(d) provide assistance for persons who have been displaced as a direct result of HUD-funded projects. Specific similarities between the two sets of regulations include:

- *Minimizing displacement* -- Both regulations stress that displacement should be minimized when possible.
- *Notices* -- Both require that a general information notice, and a notice of non-displacement or a notice of eligibility for relocation benefits be provided.
- *Economic displacement* -- Both regulations consider people who cannot afford to remain in the property after project completion to be economically displaced.
- *Relocation assistance and procedures*
 - Moving expenses are the same under the two sets of regulations.
 - Both require payments of rental assistance, although the amounts and available types vary across the two regulations.
 - Both permit offering Section 8 or HOME tenant-based assistance to eligible families who will remain in the project to avoid economic displacement. And, as with URA, "gap" payments may be required in some cases.
 - Section 104(d) and URA require that displaced tenants be offered comparable dwelling units that are decent, safe, and sanitary.
 - Advisory services are also required under both 104(d) and URA.
 - Appeals are provided for under both sets of requirements.
- *Grantee responsibility and records* -- Grantees are responsible for ensuring subgrantee compliance with both 104(d) and URA and for keeping adequate records.

ECONOMIC DISPLACEMENT UNDER 104(d)

Handbook 1378, Paragraph 7-7b(3)

Lower Income Tenants

- ☐ Lower Income tenants who are intended to remain in the project must receive the offer of a "suitable" unit which can be rented at an "affordable" price [7-7b(3)(a)].
- ☐ Tenants who move permanently after execution of the agreement because they did not receive such an offer are "economically displaced".
- ☐ If there is no increase in rent, the unit is considered affordable and the tenant is not considered rent burdened, even if the percentage of income that the tenant is paying is quite high [7-7b(3)(a)(ii)].
- ☐ If the rent is increased it may not exceed the tenant's *Total Tenant Payment* as calculated for the Section 8 program [7-7b(3)(a)(ii)].
- ☐ As under the URA the Grantee may offer Section 8 or HOME tenant-based assistance, if either is available, to prevent economic displacement.

EXAMPLELOWER INCOME FAMILY TO REMAIN IN PLACE

\$400	Pre-Rehab Unit Rent	\$20,000	Annual Gross Income
<u>50</u>	<u>Estimated Average Utilities</u>	<u>\$ 1,440</u>	<u>Adjustments</u> <u>(480 x 3)</u>
\$450	Pre-Rehab Gross Rent	\$18,560	Adjusted Income
\$500	Post Rehab Rent	$\$20,000 \div 12 \text{ months} \times .10 = \167	
<u>50</u>	<u>Estimated Average Utilities</u>	$\$18,560 \div 12 \text{ months} \times .30 = \mathbf{\$464}$	
\$550	Post Rehab Gross Rent	Welfare Rent	NA

TTP = \$464

- The rent has increased and exceeds the old rent. The tenant is rent burdened because the new rent exceeds the TTP.
- In order to avoid economic displacement the tenant must be offered Section 8, HOME TBA, or an owner subsidy. If the tenant is not offered the assistance and moves, the tenant is considered displaced and is eligible for relocation assistance.

Tenants With Incomes Above the Lower Income Limit

- A family whose income is above the Section 8 Income Limit is not covered by 104(d). However, such a family who is economically displaced is covered by the URA
[Chapter 8].

EXAMPLE

\$550 Pre-Rehab Rent \$25,000 Annual Gross Income

60 Estimated Average Utilities

\$610 Pre-Rehab Gross Rent

$$\$25,000 \div 12 \times .30 = \$625$$

\$580 Post Rehab Rent

60 Estimated Average Utilities

\$640 Post Rehab Gross Rent

- Family is rent burdened using URA criteria. New rent plus utilities (\$640) is greater than both the displacement unit rent (\$610) and 30 percent of gross income (\$625).
- This family does not qualify for 104(d) assistance and would not be eligible for Section 8 or HOME tenant-based assistance because of their income. But, they would qualify for a replacement housing payment under URA.

104(d) REPLACEMENT HOUSING PAYMENT

Handbook 1378, Paragraphs 7-7 and 7-16
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Basic Requirements

- The 104(d) Replacement Housing Payment is available only to Lower Income households [7-7a]. Displaced tenants with incomes above the Section 8 Lower Income limit are eligible to receive assistance under the URA.
- The 104(d) Replacement Housing Payment is intended to provide affordable housing for a 60 month period [7-16e]. There is no cap on the 104(d) Replacement Housing Payment.
- As with URA the payment is calculated using the lower of the cost of the tenant's replacement dwelling (including utilities) or a comparable replacement dwelling.
- The Replacement Housing Payment makes up (for a 60 month period) the difference between [7-16e(1)(a)]:
 - The rent and utility costs for the replacement dwelling (or comparable) and
 - The tenant's Total Tenant Payment, calculated as the greater of:
 - 30% of adjusted income
 - 10% of gross income
 - Welfare Rent (in as-paid states)

EXAMPLE

\$500	Replacement Unit Rent	\$20,000	Annual Income
<u>50</u>	<u>Estimated Average Utilities</u>	<u>\$ 1,440</u>	<u>Adjustments</u>
			<u>(480 x 3)</u>
\$550	Replacement Unit Gross Rent	\$18,560	Adjusted Income
\$490	Comparable Unit Rent	$\$20,000 \div 12 \text{ months} \times .10 = \167	
<u>50</u>	<u>Estimated Average Utilities</u>	$\$18,560 \div 12 \text{ months} \times .30 = \mathbf{\$464}$	
\$540	Comparable Unit Gross Rent	Welfare Rent	NA
		TTP = \$464	

Replacement Housing Payment:

	\$ 540	Comparable Unit Gross Rent
minus	\$ 464	<u>Total Tenant Payment (TTP)</u>
	\$ 76	Monthly Difference
x	<u>60</u>	<u>Months</u>
	\$4,560	Replacement Housing Payment

- ☐ HUD form 40072, Appendix 27 of Handbook 1378 is used for this calculation.

OFFERING TENANT ASSISTANCE

Handbook 1378, Paragraph 7-16

Basic Requirements

- As with URA, tenant-based assistance in the form of HOME TBA or Section 8 can substitute for the Replacement Housing Payment [7-16e(1)(b)]. It must be offered for a 60 month time period.
- Unlike URA, the grantee, not the tenant, decides whether tenant-based assistance or a replacement housing payment will be made [7-16e(1)(c)].
- However, if the family wants a cash payment and therefore rejects an offer of tenant based assistance under 104(d), the family retains its right to a cash payment (42 months) under URA [7-16e(1)(c)].
- As with URA, cash rental assistance must be provided in installments.
- If the displaced person wishes to purchase a home, the payment must be provided in a lump sum for a down payment [7-16e(2)(a)]. However:
 - For 104(d), cooperatives and mutual housing are the only permitted forms of homeownership [7-16e(2)(a)].
 - The capitalized value of the replacement housing payment is calculated using the passbook interest rate currently in effect for a federally insured bank or savings and loan conducting business in the jurisdiction [7-16e(2)].

EXAMPLE

The tenant in the previous example is entitled to a replacement housing payment of \$76 per month or \$4,560 over 60 months.

Since the grantee has the right to make the payments in installments, a lump sum payment is capitalized. (Reduced to the amount that would realize \$4,560 over a 60 month period at the passbook rate.)

At a passbook rate of 4.5% the capitalized value of \$4,560 is \$4,077.

A business related handheld calculator easily calculates the capitalized value or the grantee can elect under optional relocation provisions to provide the full amount. This would make the payment consistent with the treatment of purchasers under URA.

OTHER COSTS

Handbook 1378, Paragraph 7-16

Moving and Related Expenses

Moving and related expenses are paid under Section 104(d) in the same way as for URA (described in Chapter 2). Tenants may receive reimbursement of reasonable, actual expenses or an allowance [7-16b].

Security Deposits

104(d) also provides for the cost of a reasonable and necessary security deposit required to lease the replacement dwelling unit. The displaced person is entitled to keep any refund due when the tenant moves from the replacement dwelling [7-16c].

SUMMARY OF MAJOR DIFFERENCES BETWEEN 104(d) AND URA RELOCATION ASSISTANCE

PART I. ELIGIBILITY FOR ASSISTANCE

SUBJECT	SECTION 104(d)	URA
Income Requirements	Only Lower Income Persons are assisted	Displaced persons of all incomes are eligible
Individual displaced by rehabilitation activities (including economic displacement)	Displaced persons are eligible only if the market rent (including utilities) of the unit before rehab did not exceed the Section 8 Existing Housing Fair Market Rent (FMR) and the market rent after rehab was above the FMR.	Displaced person are eligible for assistance regardless of pre- and post- rehabilitation rents. (URA does not cover economic displacement but HUD program regulations require assistance equivalent to URA.)
Economic Displacement Criteria	<p>Displaced person is eligible if not offered a suitable unit at or below the greater of:</p> <ul style="list-style-type: none"> • TTP; or • old rent/utility costs 	<p>Displaced person is eligible if not offered an appropriate unit at or below the greater of:</p> <ul style="list-style-type: none"> • 30% of gross income • old rent <p>Note: 30% of gross income is the general policy; rules vary by program.</p>
Individual displaced by <u>conversion</u> of unit to a non-residential use	Displaced person is eligible only if the market rent (including utilities) of the displacement unit did not exceed the FMR before conversion	Displaced person is eligible for assistance by any conversion to a non-residential use.
Individual displaced by <u>demolition</u>	Displaced person eligible regardless of the pre-demolition market rent.	Displaced person eligible regardless of the pre-demolition market rent.
Individual displaced by <u>acquisition</u> only	Displaced person is not eligible.	Displaced person is eligible.

SUMMARY OF MAJOR DIFFERENCES BETWEEN SECTION 104(d) AND URA RELOCATION ASSISTANCE

PART II. AMOUNT OF ASSISTANCE PROVIDED

SUBJECT	SECTION 104(d)	URA
Rental Assistance Term	60 months	42 months
Rental Replacement Housing Payment	Amount needed to reduce new rent/utility costs to <i>Total Tenant Payment</i> (NOTE: "old rent" is not included in the formula.)	Amount needed to reduce new rent/utility costs to the lower of: <ul style="list-style-type: none"> • old rent/utility costs • 30% of gross monthly income
Use of Section 8 or TBA Rental Assistance	If TBA or Section 8 assistance and suitable referrals are offered, displaced person cannot insist on cash replacement housing payment. BUT, tenant may request cash replacement housing payment under URA.	Displaced person has the right to a cash replacement housing payment but may accept TBA or Section 8 assistance if it is offered.
Other Assistance	Assistance includes security deposit at replacement dwelling	Assistance does not include security deposits
Homeownership Assistance	Limited to purchase of a cooperative or mutual housing and based on present (discounted) value of 60 monthly rental payments.	Not limited to cooperative or mutual housing. Payments equals 42 x monthly rental payment (i.e., is not discounted)
Moving and Related Expenses	Person may choose either: <ul style="list-style-type: none"> • Payment for actual moving and related expenses; or • Alternative allowance based on DOT Schedule 	Person may choose either: <ul style="list-style-type: none"> • Payment for actual moving and related expenses; or • Alternative allowance based on DOT Schedule

SECTION 104(D) ONE FOR ONE REPLACEMENT REQUIREMENTS

OVERVIEW

24 CFR 570.496a(c)(1) and 24 CFR 570.606(c)(1)

- ☐ Grantees may not use CDBG or HOME dollars to reduce the supply of "low/moderate dwelling units" [7-1a].
- ☐ Section 104(d) requires that each applicable unit that is "lost" be replaced by another affordable unit.
- ☐ This is a bricks and mortar requirement. It is not related to the circumstances of the family who lives in the unit, nor whether the unit is currently owned or rented.

MORE DEFINITIONS

Handbook 1378, Paragraph 7-9 and 7-12

☐ **Market Rent**

Rent charged for an unsubsidized comparable unit. Generally, this is what a tenant pays. A reduced rent charged to a relative or on-site manager is not market rent. For owner-occupied units, the market rent is the rent the unit could command if it were rented.

☐ **Vacant Occupiable Dwelling Unit [7-12]**

- (1) A dwelling unit in standard condition (regardless of how long it has been vacant); or
- (2) A vacant unit in substandard condition that is suitable for rehabilitation (regardless, how long it has been vacant); or
- (3) A dilapidated unit, not suitable for rehabilitation which has been occupied (except by squatters) within one year from before the date of agreement.

TRIGGERS FOR REPLACEMENT

- ☐ Grantees MUST replace a unit if:
 - It meets the definition of low/moderate dwelling unit; **AND**
 - It is occupied or is a vacant occupiable dwelling unit; **AND**
 - It is to be demolished or converted to a unit with market rents above the FMR or to a use that is no longer for permanent housing
- ☐ A unit DOES NOT need to be replaced if:
 - It does not meet **all** of the triggering criteria.
 - It is a substandard unit not suitable for rehabilitation (as defined by CHAS or HAP) that has been vacant for over a year.
- ☐ Income of the current resident is not relevant when evaluating triggers for replacement.

EXERCISE

Must these units be replaced?	Yes	No
(1) Before CDBG- funded conversion to an emergency shelter for the homeless, the rents of the units in the apartment building were below the FMR. The units were in standard condition.		
(2) Before CDBG demolition the dwelling unit was owner-occupied and its market rent was below the FMR (comparable units rented below the FMR).		
(3) Before rehab the rent was below the FMR; after CDBG rehab the rent was above the FMR. The unit was occupied.		
(4) Before conversion with CDBG into commercial space, a dwelling unit that was <i>substandard but suitable for rehabilitation</i> was vacant for two years. Prior to conversion, the market rent was below the FMR.		
(5) The seriously dilapidated units had been vacant for less than one year before remodeling with CDBG into a shelter for homeless persons. The market rents of the units were below the FMR.		
(6) A deteriorated unit not suitable for rehabilitation was determined to be a health and safety hazard to neighborhood children. It had been vacant for over a year. It was demolished with CDBG funds.		

EXERCISE

Must these units be replaced?	Yes	No
(1) Before CDBG-funded conversion to an emergency shelter for the homeless, the rents of the units in the apartment building were below the FMR. The units were in standard condition.	X	
(2) Before CDBG demolition the dwelling unit was owner-occupied and its market rent was below the FMR (comparable units rented below the FMR).	X	
(3) Before rehab the rent was below the FMR; after CDBG rehab the rent was above the FMR. The unit was occupied.	X	
(4) Before conversion with CDBG into commercial space, a dwelling unit that was <i>substandard but suitable for rehabilitation</i> was vacant for two years. Prior to conversion, the market rent was below the FMR.	X	
(5) The seriously dilapidated units had been vacant for less than one year before remodeling with CDBG into a shelter for homeless persons. The market rents of the units were below the FMR.	X	
(6) A deteriorated unit not suitable for rehabilitation was determined to be a health and safety hazard to neighborhood children. It had been vacant for over a year. It was demolished with CDBG funds.		X

DISCLOSURE AND REPORTING REQUIREMENTS

In addition to the Anti-displacement Plan that every Grantee must prepare and follow, there are specific requirements when a Grantee is going to use CDBG or HOME funds in an activity which will reduce the supply of "low/moderate income housing units".

- ☐ Before a grantee executes a contract for any activity that would create the need for one-for-one replacement, the grantee must:
 - Make the plan public, by publication in a newspaper of general circulation, and
 - Submit to the State the following information:
 - Description of the proposed activity
 - Location and number of units to be removed
 - Schedule for the beginning and completion of the demolition or conversion
 - Location and number of replacement units
 - Source of funding and timing for providing the replacement units
 - The grantee's basis for determining that the replacement units will remain affordable for at least 10 years from the initial date of occupancy
 - The grantee's justification (if applicable) for replacing larger units with smaller units.
- ☐ There will be no formal State approval of the submission. The State will use the information in its monitoring activities.

REPLACEMENT UNITS

- ☐ Replacement units must:
 - Be **within the grantee's jurisdiction** and, if possible and consistent with other statutory priorities, in the **same neighborhood**;
 - Be in **standard condition**;
 - **Designed to remain affordable** to low income families for 10 years.
- ☐ The number of **bedrooms replaced must equal the number of bedrooms removed** (but not necessarily in the same unit configurations).

Example: Two one bedroom units could be replaced with one two bedroom unit.

Larger units may not be replaced with smaller units unless the grantee can demonstrate that the replacement is consistent with the housing needs of lower-income households in the jurisdiction. (See the end of this chapter for public notice and HUD submission requirements.)

Example: A jurisdiction might show that the need for one-bedroom units as shown in the CHAS (or HAP) greatly exceeds the need for two-bedroom units.

- Replacement units must be provided within a **four year time frame**.
 - Units made available up to one year before the submission of the grantee's plan for a 1-for-1 replacement may be counted as replacement units.
 - Units made available within three years of the beginning of the demolition or rehabilitation can be counted as replacement units.
- Substandard units that are rehabilitated can count toward the replacement units if:
 - No person was displaced by the assisted activity; and
 - The unit was vacant for at least three months before the agreement authorizing the rehabilitation; and
 - The unit is in standard condition following rehabilitation.

EXCEPTIONS TO ONE-FOR-ONE REPLACEMENT REQUIREMENTS

- Grantees may request an exception to the one-for-one replacement requirements if adequate, vacant, affordable housing is available.
- Exceptions are requested through the State.
 - State recipients must submit the request to the State for determination and invite the public to make comments to the State. If the State supports the request, the State must provide its recommendation to HUD.
- Exceptions must be sought BEFORE executing a contract for demolition or conversion of low/moderate income dwelling units begins. Exceptions cannot be granted after completion of demolition or conversion.
- The HUD Field Office will make this determination based on the:
 - Jurisdiction's vacancy rate and number of vacancies;
 - Length of waiting lists for assisted housing in the jurisdiction;
 - The needs analysis contained in the applicable CHAS; and
 - Housing that may be available nearby, but outside, the jurisdiction.

Managing the Process

KEY MANAGEMENT ISSUES

- ☐ Getting relocation staff involved early in the process.
 - Program Design Considerations
 - Project Selection and Implementation
- ☐ Explaining complex requirements to non-relocation people.
- ☐ Demonstrating that a good job has been done.
 - HUD Monitoring
 - Subgrantee Monitoring
 - Recordkeeping

GETTING IN AT THE RIGHT TIME

PROGRAM DESIGN CONSIDERATIONS

- ☐ Program administrators are more likely to be open to discussion about relocation issues if they are raised during the program design phase, rather than later in the process when they may be perceived as road blocks.
- ☐ Key Program Design Considerations
 - How to establish policies to "minimize displacement".
 - Will Section 8 tenant-based assistance be used as a relocation/tenant assistance resource?
 - What are the sources of relocation/tenant assistance funding and how will they be used?
 - What staff will be responsible for relocation activities?
 - Establishing a project schedule that includes relocation activities.
 - Planning coordination between program and rehabilitation staff.

- When and how to "get in"
 - PHAs spell out how they will use Section 8 resources (including preferences) in an Administrative Plan.
 - Communities must prepare a 104(d) Residential Antidisplacement and Relocation Plan.
 - Agreements between PHAs and grantees are often recorded in a Memorandum of Understanding.
- Where a small staff has multiple roles, generalists need need to be aware of Relocation and Acquisition requirements as programs are created and projects are in the early stages. Anticipating issues and planning for them is easier (and generally less expensive) than problem solving.

PROJECT SELECTION AND IMPLEMENTATION

- Most of this course book talks about relocation and tenant assistance activities that take place after a project is selected. However, relocation staff involvement at a much earlier time is critical.
 - Relocation implications should be considered in advertisements to developers or public announcement that leads to owner submissions.
 - Relocation requirements should be clearly spelled out in all Requests For Proposals and application packages.
 - Program staff should establish for each activity the specific date that triggers a General Information Notice as well as the notices of nondisplacement or eligibility for relocation assistance.
- Rehabilitation staff should be aware of relocation requirements when they are involved with negotiations with the owner while the project is under consideration to assure that relocation and tenant assistance issues are addressed.

EXPLAINING RELOCATION REQUIREMENTS TO OTHERS

BASIC APPROACH

- ☐ Others don't need to know everything you know -- they need to know what they need to know.
- ☐ Find a way to express it that is meaningful for the person you want to understand it.
- ☐ Give the big picture first.
- ☐ Give the details in stages -- but only after the big picture is clear.
- ☐ Develop workable tools that help people remember what you have said. Use a "multi media" approach (e.g. face to face discussions, written documents, pictures when possible, etc.)
- ☐ Assume that everything will not be absorbed the first time and that reinforcement is needed.

TEN THINGS YOU NEED TO KNOW -- A GUIDE TO RELOCATION REQUIREMENTS FOR HOUSING PROGRAM ADMINISTRATORS

1. **DEED and HUD care about this.** The State and Federal Government takes tenant assistance and relocation issues seriously. Recent legislation has expanded who is covered and what must be done for them.
2. **So should we.** Even if the government were not concerned, we should be. The tenant assistance and relocation requirements address basic "fairness" issues including:
 - Owners of property who must lose that property for a greater good are entitled to compensation and an acquisition process that gives the time and information they need to make alternative arrangements.
 - Renters whose housing circumstances are altered (either because they must move out or because their rent goes up) as a result of our action should be compensated. They should be given the time, information and compensation needed to make alternative arrangements.
3. **The rules are not all one-sided.** There are actions we can take to "save" money as well as actions we must take even though they cost money.
4. **Physical displacement is not the only issue.** There are protections for tenants who remain as well. The protections relate primarily to keeping the tenants informed and assuring that they do not move causing unnecessary hardship or expense for the agency.
5. **Planning is Critical.** Relocation and tenant assistance concerns need to be addressed in program design, the budget process, solicitation and selection of projects.
6. **Cooperation is Essential.** A number of people need to "do the right thing" in order to make the process work.
 - Resources to help meet relocation obligations may be available from the PHA's Section 8 programs.
 - Program staff needs to understand enough about the relocation rules to bring the relocation staff in at the right time.

7. Mistakes can be costly.

- Owners and subrecipients can take actions which could incur a liability for the jurisdiction.
- Relocation assistance can be more 42 or 60 months depending upon the program. The average Replacement Housing Payment in our jurisdiction is _____. Although some payments are unavoidable, there is no reason to pay more than is required by failing to follow the rules.

8. There are three basic requirements for residential properties.

- All affected persons must receive timely notices of their rights, information about plans for the projects and the assistance they will receive. People who don't get the required notices may make the claim that they are displaced persons -- even if it was not intended that they move.
- All displaced persons must be offered a comparable replacement unit which is decent, safe, sanitary and affordable. Moving and related expenses must be paid. No one may be required to move with less than 90 days notice!
- Persons who will remain in a property must be offered a suitable unit that is decent, safe, sanitary and affordable.

9. The staff needs your help and support on relocation and acquisition issues.

- Use the expertise available to you. The rules are complex. This is an area in which it is not possible to "wing it".
- It is important that program staff and relocation staff work as a team. Your assistance is gaining cooperation (access to Section 8 funds) from the PHA would be helpful.

10. The staff can help you. They can:

- Provide additional information as you need it. We recommend reading the attached HUD Information Bulletin as a first step.
- Help the agency avoid relocation problems, if they are brought into project activities soon enough.

DEED MONITORING GUIDANCE

OVERVIEW

- ☐ HUD has provided guidance to its Field Offices responsible for monitoring in Handbook 1374 - *Tenant Assistance, Relocation and Real Property Acquisition -- HUD CPD Staff Responsibilities*. This Handbook is useful to States also as they manage monitoring of the function.
- ☐ Monitoring is intended to:
 - Provide information needed to require corrective action if problems are found, and
 - Help identify the need for and provide technical assistance to grantees.
- ☐ Monitoring verifies the basic benefits covered by URA:
 - The right to information that is accurate, complete, clear, and timely, and
 - Payments to eligible persons for temporary or permanent displacement.
- ☐ Grantees are monitored against applicable program regulations and their own policies.
- ☐ Monitoring covers the following:
 - Persons displaced and not displaced, including temporary moves or tenants who remained in place after the project was completed.
 - Projects complete and those in progress.
 - Complaints and appeals, written or verbal, from the public and persons affected by the project.
 - All activities which could generate acquisition or relocation workload.
- ☐ Monitoring includes a review of the "paper trail", on-site inspections of replacement dwellings, and interviews with persons who were displaced or not displaced.
- ☐ Recipients of HUD funding have a similar responsibility to monitor the activities of owners and subrecipients to assure compliance.

KEY STEPS IN DEED'S MONITORING PROCESS

- ◆ Identify the total workload
- ◆ Conduct a risk analysis
- ◆ Develop a monitoring schedule
- ◆ Conduct IN-DEPTH, LIMITED OR MAIL-IN monitoring
- ◆ Follow up on Monitoring Findings
- ◆ Respond to appeals and complaints

DEFINING THE WORKLOAD

- ☐ A variety of source helps to identify the workload, including:
 - program applications
 - performance reports
 - discussions with other DEED staff
 - ongoing contacts with grantees
- ☐ HUD summarizes the workload on form HUD-4025, a version of which could be useful to DEED staff also.

PERFORMING THE RISK ANALYSIS

- ☐ Key Risk Factors include:
 - size of past, present and planned activities
 - complexity of activities
 - capacity of grantees staff
 - whether low income occupants will be directly affected
 - known problems with past or current performance
 - need to clear previous findings
 - whether the grantee awards funds to subrecipients
 - period of time that has elapsed from last monitoring review
 - need to monitoring programs that have been or are scheduled for close-out that have not yet been reviewed.
- ☐ HUD's risk analysis and monitoring are used to identify "critical grantees" who might benefit from intensive technical assistance.

MONITORING PROTOCOL

- ☐ On-site visits generally start with an entry conference and end with an exit conference.
- ☐ In addition to the managerial areas identified above, the review consists of:
 - reviewing a sample of project files (displaced tenants, not displaced tenants, acquisition files)
 - review for property owner conflict of interest
 - interviews with displaced persons, persons not displaced and property owners
 - inspections of replacement housing and permanent housing
- ☐ Handbook 1374 provides checklists and formats for these reviews.

FINDINGS

- ☐ Findings of noncompliance are classified as either correctable or non-correctable violations.
- ☐ Correctable Violations generally include:
 - Inadequate financial assistance -- the grantee is directed to find the person if necessary and pay the differential.
 - Inadequate housing -- the grantee is directed to assist the person in relocating to appropriate replacement housing or that the substandard conditions in the current dwelling are corrected.
- ☐ Non-correctable violations are actions for which there is not appropriate remedy. For example, displaced persons did not receive the information booklet in a timely manner but nonetheless received appropriate benefits.
 - HUD will notify the grantee of such violations and instruct the grantee to "sin no more".
 - A continuing pattern of non-correctable violations is cause for sanctions.

SANCTIONS

- ☐ Possible sanctions include:
 - Suspension or termination of funding for acquisition or displacement causing activities
 - Recovery of improperly spent funds
 - Suspension or termination of all HUD financial assistance for a project or program.

COMMON PROBLEMS FOUND IN MONITORING

- ☐ Written documentation of contacts and decisions was inadequate or missing.
- ☐ No evidence that the person received full, timely information and required Notices.
- ☐ Unsigned or undated claim forms in files after case is closed.
- ☐ No proof of inspection of replacement property or comparable.
- ☐ 104(d) considerations regarding tenant eligibility for expanded benefits and one-for-one replacement of units.

GRANTEE MONITORING OF SUBRECIPIENTS

- Assuring that relocation requirements are met in your community belong to you. While responsibilities may be delegated, each grantee is held responsible.
- Many different types of subrecipients, contractors, and fund recipients may create relocation obligations and workload, for example:
 - Nonprofits helping to administer CDBG housing programs
 - CHDOs (special types of non-profit housing development organizations) that develop housing with HOME funds.
 - For-profit developers rehabilitating rental housing
 - Shelter and special needs housing providers who acquire and rehabilitate housing to meet the needs of the homeless and other special populations.
- Some things we've heard from subrecipients and owners about relocation related activities:
 - "If we had only known the rules in advance, we would have done the right thing."
 - "If you want us to do all these things (screen tenant incomes, calculate TTP, etc.) you have to recognize that these are costs of development that belong in our project pro forma or operating budgets."
 - "All our housing serves poor people. We didn't even know we were triggering URA or 104(d)."
- The best defense is a good offense: Provide training, information, and resources related to relocation before funding subrecipients and borrowers. Some things to share with subrecipients:
 - The URA and 104(d) rules that will be important to their projects;
 - The organizational procedures and process for carrying out relocation activities in your community: what will your staff do and what do you expect subrecipients and owners to do? will staff of other agencies, for example the PHA, be involved?
 - Materials and other written information prepared by HUD and/or your agency to inform tenants and owners of their rights.

- The local resources for providing relocation assistance: will there be HOME or Section 8 TBA? CDBG or HOME replacement housing funds? local funds?
 - Any local policies with respect to relocation and how tenants and owners are handled.
 - Who, if necessary, is expected to provide one-for-one replacement housing? the owner? the grantee?
- ☐ The key steps in your monitoring process are the same as HUD's!

KEY STEPS IN MONITORING SUBRECIPIENTS

- ✓ Identify your workload
- ✓ Conduct a risk analysis
- ✓ Develop a monitoring schedule
- ✓ Conduct monitoring reviews
- ✓ Follow-up on findings, including provision of TA and training
- ✓ Respond to appeal and complaints

RECORDKEEPING

GENERAL

- ☐ Remember: the Grantee is responsible for demonstrating compliance with URA requirements even though someone else might be carrying out the activities.
- ☐ Good recordkeeping is essential to demonstrating that you have done a good job. Records should follow the progress throughout the project implementation regarding telephone calls, letters, personal visits, and attempts (successful or unsuccessful) to reach the people involved.
- ☐ Records must be maintained for three years (at a minimum) after the last of the following dates:
 - The date displacement was complete, payments made, and final acquisition payments were made,
 - The date of project completion, or
 - The date that program regulations specify.

ACQUISITION RECORDKEEPING

- ☐ For each project:
 - A list of all parcels to be acquired
 - See Appendices 23 and 24 of 1378 for a sample guideform to use in tracking activities and contacts.
- ☐ Have the parcel list and files readily accessible for HUD during monitoring. They will select their samples from the list and not want you to select cases for them.
- ☐ For each parcel acquired:
 - A separate file that contains each owner and address.
 - Evidence of information regarding all the rights the URA provides (e.g. the right to accompany the appraiser).
 - A copy of the appraisals and offer to purchase.

- Contracts that were executed, the closing statement, proof that the correct amount of money was paid and proof that the check was received by the appropriate person, any complaints or appeals regarding the acquisition process.

RELOCATION RECORDKEEPING

- For each project: (See Appendices 21 and 22 of 1378 for guidance.)
 - List of in-place occupants at beginning of project, information regarding their incomes, housing cost of tenants, household characteristics and race (optional at discretion of occupant).
 - List of anyone moving in before the project was complete.
 - Names of those occupying the property after completion.
- For those not displaced:
 - Notices and proof of receipt.
 - Documentation for any voluntary permanent move or temporary move.
 - Copies of any complaints or appeals.
- For those displaced: (See Appendices 8 and 9 of 1378)
 - Name, address, income, household characteristics for residential displaced persons.
 - For non-residential cases, include information on the type of enterprise.
 - For homeowners, provide documentation of acquisition price paid for the property so it is clear that calculations were accurate.
 - Evidence of any and all Advisory Service provided:
 - This includes Notices and proof of receipt of all required correspondence.
 - Documentation of choice of comparable.
 - Evidence of referrals to replacement housing or business site.

-- 30 and 90 day Notices if issued.

- Information of personal contacts, telephone calls.
- Replacement property information, including inspections, copies of leases, purchase agreements, closing statements.
- Claims and proof of payment.

LOCAL POLICIES NEEDED TO ADMINISTER RELOCATION

- ☐ Anti-displacement Plan to minimize displacement (part of assurances given during CDBG and HOME program submissions as well as CHAS).
- ☐ Temporary relocation policies.
- ☐ Any Optional relocation policies to be used.
- ☐ How often periodic payments will be made to those persons displaced.
- ☐ How one-for-one replacement of units will be accomplished if/when 104(d) is triggered.